

<h1 style="margin: 0;">ACF</h1> <p style="margin: 0;">Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-IM-04-04	2. Issuance Date: 02-17-04
	3. Originating Office: Children's Bureau	
	4. Key Words: Adoption Incentives and AFCARS penalties; Adoption Promotion Act of 2003 (Public Law 108-145)	

INFORMATION MEMORANDUM

TO: State and Territorial Agencies Administering or Supervising the Administration of title IV-B and/or title IV-E of the Social Security Act, ACF Regional Administrators

SUBJECT: **New Legislation:** The Adoption Promotion Act of 2003 (Public Law 108-145)

LEGAL AND RELATED REFERENCES:

Sections 473A, 474 and 479 of the Social Security Act (the Act).

PURPOSE: This *Information Memorandum* informs the States of the reauthorization of and amendments to the Adoption Incentive Payments Program, as well as penalties relevant to the Adoption and Foster Care Analysis and Reporting System (AFCARS).

INFORMATION: The Adoption Incentive Payments Program originally was created as part of the 1997 Adoption and Safe Families Act (ASFA). Under this law, adoption bonuses provided incentives to promote the adoption of children from the public child welfare system, with an additional incentive to promote the adoption of children with special needs. The legislative authority for the existing incentive program expired at the end of Fiscal Year (FY) 2003.

The Adoption Incentive Payments Program has been successful in contributing to the substantial increase in adoptions in recent years. While the overall number of children being adopted has grown dramatically since ASFA was passed, some children needing a permanent home are less likely to be adopted. Analysis of data from AFCARS reveals that once a child waiting for adoption reaches nine years old, the child is more likely to continue to wait in foster care than to be adopted.

The Adoption Promotion Act of 2003, enacted October 1, 2003, reauthorizes until FY 2008 the payment of adoption incentive funds to States that are successful in increasing the number of children adopted from the public foster care system and children with special needs. The program authorizes \$43 million for FY 2004. The amendments continue the existing program and focus additional attention on the needs of older children waiting for adoption through a targeted bonus for children adopted over the age of nine.

Under the statute, States have to exceed a “baseline” number of adoptions in order to qualify for incentive funds. Incentive funds now will be awarded to States if they exceed either the overall foster child adoption or older child adoption baselines. Incentive payments then will be calculated using three separate baselines: one for the total number of children adopted from the public foster care system; one for special needs adoptions of children under the age of nine; and the other for adoptions of children age nine and older.

- For the increase in the number of adoptions over the baseline for the State’s total number of adoptions, the State will receive a \$4,000 bonus for each child.
- For the increase in the number of adoptions over the baseline for children age nine and older, the State will receive an additional \$4,000 bonus for each child.
- For each special needs adoption of a child under age nine, the State will receive an additional \$2,000 bonus for each child.

In FY 2003, the baselines for all three groups were FY 2002 adoptions. For subsequent fiscal years, the baseline is set at the highest number of adoptions for each group between FY 2002 and the previous year. The new incentives are effective as of the beginning of FY 2004.

New AFCARS Penalty

This law also requires the Secretary of the Department of Health and Human Services to impose penalties on States for failing to submit AFCARS data as required by regulation. The new provision outlines the penalty structure.

- The Secretary must notify the State, within 30 days of its AFCARS submission, of its failure to submit data as required, and that penalties will be assessed if the required data is not re-submitted within six months.
- If the State fails to re-submit the data as required within the six months, the Secretary must impose a penalty of 1/6th of one percent of the State’s title IV-E foster care administrative claims for the quarter ending in the subsequent six-month period.

- If the failure continues beyond the initial penalized six month period, the penalty increases to 1/4th of one percent every six months until the State is in compliance.

The Administration for Children and Families is not assessing AFCARS penalties at this time (see ACYF-CB-IM-02-03) and will not take penalties until new, final AFCARS regulations are issued implementing P.L.108-145. Further guidance regarding calculation of baselines and awards, reporting, processing of data, as well as other aspects of program implementation, will be issued in the near future.

INQUIRIES TO: ACF Regional Offices

Joan E. Ohl
Commissioner
Administration on Children, Youth
and Families

Attachment: [Public Law 108-145, The Adoption Promotion Act of 2003](#)