

<h1>ACF</h1> <p>Administration for Children and Families</p>	<p>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</p> <p>Administration for Children, Youth and Families</p>	
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	<p>3. Originating Office: Children's Bureau</p>	
	<p>4. Key Words: Title IV-E Financial Eligibility, Personal Responsibility and Work Opportunity Reconciliation Act of 1996</p>	

PROGRAM INSTRUCTION

TO: State Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations, Regional Administrators, Regions I-X

SUBJECT: Effects of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Title IV-E Eligibility

LEGAL AND RELATED REFERENCES: Sections 402, 406, 407, 470, 471, 472, 473, 1115, and Title XIX of the Social Security Act (the Act); P.L. 104-193; ACYF-CB-PIQ-96-02; "Streamlined State Plan for Title IV-A of the Social Security Act;" and, State Plan for Title IV-E of the Social Security Act

NOTE: Citations in this issuance attributed to sections 402, 406, and 407 of the Act refer to those provisions as they were in effect on June 1, 1995.

PRWORA linked Medicaid eligibility to the AFDC program as in effect on July 16, 1996. The Department has submitted a technical amendment to make financial eligibility for both programs consistent with the July 16, 1996 date.

PURPOSE: The purpose of this Program Instruction (PI) is to provide guidance on the effects of PRWORA on eligibility determinations for title IV-E foster care and adoption assistance. Topics include: effective dates for implementation; a new **amendment to the title IV-E State Plan**; and implementation issues and options.

BACKGROUND: On August 22, 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), which, among other things, eliminated the Aid to Families with Dependent Children (AFDC), Job Opportunities and Basic Skills, and Emergency Assistance programs. These open-ended entitlements were replaced

with a block grant program, "Temporary Assistance to Needy Families (TANF)." Historically, financial eligibility for title IV-E was predicated on eligibility for AFDC, and remains so despite the creation of TANF.

Section 108 of the PRWORA amended sections 470, 471, 472, and 473 of the Act, linking title IV-E financial eligibility to the AFDC program as it was in effect on June 1, 1995.

Eligibility Criteria for Title IV-E:

Foster Care: In determining eligibility for title IV-E foster care, the following criteria must be met: The child would have met the requirements of sections 406(a) and 407 with the exception of his/her removal from the home of a relative specified in section 406(a). In meeting the requirements of section 406(a), a child must be "deprived of parental support or care by reason of ... death, continued absence from the home ... or physical or mental incapacity ..." In the AFDC Unemployed Parent program, the deprivation factor is met through the primary wage earner's unemployment as defined in section 407.

Section 406(a) also requires that a child be under the age of 18, or 19 at State option, if the child is a full time student in a secondary school (or equivalent in vocational or technical training) and is reasonably expected to complete said educational or training program before his/her 19th birthday.

The removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination that remaining in the home was contrary to the welfare of the child. The State agency must have made reasonable efforts to prevent the removal.

The child's placement and care are the responsibility of the State agency administering or supervising the administration of the State's title IV-E plan.

The child has been placed in a licensed/approved foster family home or child care institution as a result of the voluntary placement agreement or judicial determination.

The child met one of the following criteria to establish financial eligibility:

1. would have been eligible for assistance under the State's AFDC plan as in effect on June 1, 1995 at the time the voluntary placement agreement occurred or judicial proceedings were initiated; or,
2. had been living with a relative specified in section 406(a) within six months prior to the month in which the voluntary placement agreement occurred or the judicial proceedings were initiated, and would have been eligible for assistance under the State's AFDC plan as in effect on June 1, 1995.

Adoption Assistance: In determining eligibility for title IV-E adoption assistance, the following criteria must be met:

At the time adoption proceedings were initiated, the child must have met the requirements of sections 406(a) and 407, or would have met those requirements except for his/her removal from the home of a relative specified in section 406(a), either pursuant to a voluntary placement agreement or judicial determination that the child's continued placement in that home was contrary to his/her welfare; the child meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent.

The child has been determined by the State, pursuant to subsection (c) of section 473, to be a child with special needs.

The child met one of the following criteria to establish financial eligibility:

1. would have been eligible for assistance under the State's AFDC plan as in effect on June 1, 1995 at the time the voluntary placement agreement occurred or judicial proceedings were initiated;
2. had been living with a relative specified in section 406(a) within six months prior to the month in which the voluntary placement agreement occurred or the judicial proceedings were initiated, and would have been eligible for assistance under the State's AFDC plan as in effect on June 1, 1995; or
3. is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent.

DISCUSSION: Since eligibility for title IV-E continues to be linked to the AFDC program as it existed prior to welfare reform, it is unlikely that States will have to make significant adjustments to their title IV-E or AFDC programs. States will have to reconstruct the AFDC need standard in effect on June 1, 1995.

The greatest challenges to the States are likely to be in program administration. Prior to welfare reform, States often took a "primary program" approach when determining eligibility for various needs-based programs. AFDC was typically that primary program. For example, States often modified the AFDC application to include the relevant data from the other needs-based programs so that only one determination would have to be made in order to test if an applicant was eligible for AFDC, Food Stamps, Medicaid, or title IV-E. Since title IV-E and Medicaid continue to be linked to AFDC despite TANF, States may face the administrative burden of having to conduct multiple eligibility determinations where one once sufficed. States may, however, construct a TANF plan that maintains some of the pre-welfare reform conformity, thus minimizing potential administrative burdens.

ACTION:

1. **Effective Dates:** The effective date for determining title IV-E eligibility under the June 1, 1995 AFDC program rules is July 1, 1997 or the date TANF went into effect in the State, whichever is first.

2. **Amendment to the Title IV-E State Plan:** State agencies that administer the title IV-E program must provide an assurance in their title IV-E State plan that the agency has obtained copies of the relevant sections of the title IV-A State plan as in effect on June 1, 1995. We are also requiring State title IV-E agencies to submit, as an appendix to their title IV-E State plans, those relevant sections of the title IV-A State plan as in effect on June 1, 1995.

The Bureau is currently updating the title IV-E State plan preprint to incorporate several new amendments. States should wait until they receive the updated title IV-E State plan preprint before submitting the assurance described in the preceding paragraph and the related appendix. States should submit their updated title IV-E State plans no later than July 1, 1997.

Reconstructing the AFDC State Plans: Two sections of the title IV-A plan most directly relate to eligibility determinations: 2.3, "Need and Amount of Assistance"; and 2.4, AFDC - "Dependent Children of Unemployed Parents." Each section references attachments that provide the necessary detail for program operation. Another useful resource will be the State's AFDC Procedures Manual.

We recommend that States retain complete copies of the title IV-A AFDC plans and all policy documents pertaining to eligibility. The AFDC program was a very complicated program; statute and regulations were often interpreted or clarified through the Federal issuance of "Action Transmittals" and "Information Memoranda". Title IV-E agencies should begin working with the State title IV-A agencies to reconstruct the title IV-A State Plan and procedures manual, and to identify and obtain copies of relevant policy issuances.

Federal Regional title IV-A personnel, both program and Quality Control (QC), may be resources for reconstructing a title IV-A State Plan as in effect on June 1, 1995. Regional program staff have historic knowledge of the program, since they are responsible for maintaining the AFDC State plans. QC staff are responsible for assessing claims for Federal Financial Participation (FFP) to determine accuracy and allowability, which requires a working knowledge of the State's title IV-A plan as it was in effect the year the expenditure occurred.

Section 1115(a) Waivers: A State's 1115(a) waiver of title IV-A requirements does not affect eligibility for title IV-E foster care maintenance or adoption assistance payments, even if the waiver was in effect on June 1, 1995 (See ACYF-PIQ-96-02). Consequently, in reconstructing the State AFDC Plan as in effect on June 1, 1995, the State should disregard any section 1115(a) waivers that may have been in effect on that date.

3. **Issues and Options for Implementation:** Establishing the actual systems, mechanisms, and procedures for conducting the title IV-E financial eligibility determinations may provide an administrative challenge for State agencies administering the title IV-E program. States have great flexibility in operationalizing their system for determining title IV-E financial eligibility.

Options include: As noted previously, States often assigned responsibility for conducting financial eligibility determinations for title IV-E to the title IV-A agency. States may devise procedures which retain the responsibility for financial eligibility determinations with the title IV-A agency.

States may choose to train the title IV-E agency in how to conduct a financial eligibility determination based on the June 1, 1995 AFDC rules.

Since 1994, States have been constructing their Statewide Automated Child Welfare Information Systems (SACWIS). In developing a SACWIS, States have the option to link it to other State systems, like the title IV-A equivalent, the Family Assistance Management Information System. The onset of TANF provides a greater incentive to link these systems, thereby streamlining the title IV-E financial eligibility determinations.

States should be cognizant that any procedural changes may require modifications to cost allocation plans.

PRWORA provides a unique opportunity for collaboration among the State agencies administering the titles IV-E, IV-A and XIX programs. In fact, it necessitates collaboration to achieve conformity among these programs, thereby mitigating administrative burdens and providing for more efficient service delivery.

INQUIRIES: Please direct all inquiries to the appropriate Regional Administrator.
James A. Harrell
Acting Commissioner
Administration on Children, Youth and Families