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| <h1>ACF</h1> <p>Administration for Children and Families</p> | U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families | |
| | 1. Log No: ACYF-CB-PI-97-04 | 2. Issuance Date: July 30, 1997 |
| | 3. Originating Office: Children's Bureau | |
| | 4. Key Words: Title IV-E State Plan Amendments Amendments: Public Law 103-432; Public Law 104-193 and Public Law 104-188 | |

PROGRAM INSTRUCTION

TO: State and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act, Regional Administrators, Regions I-X, and Territories Administering the Title IV-E State Plan

SUBJECT: Title IV-E State Plan Amendments

LEGAL AND RELATED REFERENCES: Sections 471, 472, 473 and 475 of the Social Security Act (the Act); the Omnibus Budget Reconciliation Act of 1989, Public Law (P.L.) 101-239; the Social Security Act Amendments of 1994, Public Law (P.L.) 103-432; the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193; the Small Business Job Protection Act, P.L.104-188; and ACYF-PI-88-07, "Title IV-E State Plan Revision"

PURPOSE: The purpose of this Program Instruction (PI) is to provide guidance to States to amend their title IV-E State plans in response to legislative changes.

BACKGROUND: On August 29, 1988, States were issued a revised title IV-E State plan preprint. Since that time, sections 471, 472, 473 and 475 of the Act have been amended by the Omnibus Budget Reconciliation Act of 1989, enacted on December 19, 1989; the Social Security Act Amendments of 1994, enacted on October 31, 1994; the Small Business Job Protection Act of 1996, enacted on August 20, 1996; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), enacted on August 22, 1996.

The following changes were made to the Social Security Act:

Section 471(a) of the Act was amended by:

- the addition of a State plan requirement for the removal of barriers to interethnic adoption (P.L. 104-188, effective January 1, 1997); and
- the addition of a State plan requirement for States to consider giving preference to the placement of children with relatives (P.L. 104-193, effective January 1, 1997).

Section 472(c)(2) of the Act was amended by:

- striking the word "nonprofit" from the definition of child-care institution (P.L. 104-193, effective August 22, 1996).

Section 475(1) of the Act was amended by:

- the addition of subparagraph (C): a case plan requirement for the inclusion of the health and educational status of a child in the child's case plan (P.L. 101-239, effective April 1, 1990).

Section 475(5) of the Act was amended by:

- the addition of subparagraph (D): to assure that the health and education records of the child are reviewed and updated at the time of each placement (P.L. 101-239, effective April 1, 1990).

Section 475(5)(A) of the Act was amended by:

- the addition of a case plan requirement for accountability for children placed in foster care out of State or a substantial distance from home; and
- inserting "and most appropriate" after "(most family like)" (P.L. 103-432, effective October 1, 1995).

Section 475(5)(C) of the Act was amended by:

- striking "periodically" and inserting "not less frequently than every 12 months" (P.L. 103-432, effective October 1, 1995); and
- inserting "and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child," after "long term basis)" (P.L. 103-432, effective October 1, 1995).

Sections 470, 471, 472 and 473 of the Act were amended by:

- linking title IV-E financial eligibility to the AFDC program as it was in effect in the State on June 1, 1995 (P.L. 104-193, effective July 1, 1997).

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

INSTRUCTIONS: Each State must submit amendments to its title IV-E State plan to reflect the new requirements of sections 471, 472, 473 and 475 of the Act. States must record the applicable State statutory, regulatory, policy references and citation(s) for each Federal requirement.

States may submit their amendments using the attached pages for the title IV-E State plan or States may use a different format, provided the format used includes all of the title IV-E State plan requirements of the Act as noted above.

1. For States using the preprinted title IV-E State plan revision format:
 - Replace the cover page; page 2 of the Table of Contents; pages 4, 7, 8, 9, 10, 11, and 12 of Section 2. Page numbers are not affected by this replacement.
 - Insert pages 3 and 4 of Section 4.
2. For States using their own format:
 - include the pertinent Federal requirements; and
 - the applicable State statutory, regulatory, policy references and citations for each Federal requirement.

States must provide an assurance in their title IV-E State plan that the State agencies administering the title IV-E program have obtained copies of the relevant sections of the title IV-A State plan as was in effect in the State on June 1, 1995; and submit, as an appendix to their title IV-E State plans, those relevant sections of the title IV-A State plan.

States are to submit the following documents to the appropriate ACF Regional Administrator for approval: 1) the title IV-E State plan amendments; 2) the title IV-A assurance, signed by the designated State agency official; 3) the relevant sections of the title IV-A State plan as an appendix; and 4) the certification, signed by the designated State agency official.

SUBMITTAL DATE: Within 90 days of this issuance date.

INQUIRIES: Please direct all inquiries to the appropriate Regional Administrator.

James A. Harrell
Acting Commissioner
Administration on Children, Youth, and Families

[Attachment:](#) STATE PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT

OMB Approval No. 0980-0141
Expiration Date: 08/31/99

**STATE PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT
FOSTER CARE AND ADOPTION ASSISTANCE**

**STATE _____
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES
CHILDREN'S BUREAU
1997**

SECTION STATE PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT

Section 4 General Program Requirements

- A. Standards for Foster Family Homes and Child Care Institutions
- B. Review of Amount of Payments
- C. Fair Hearings
- D. Independent Audit
- E. Child Abuse and Neglect
- F. Removal of Barriers to Interethnic Adoption
- G. Kinship Care

SECTION 5 General Provisions

- A. Personnel Administration
- B. Safeguarding Information
- C. Reporting
- D. Monitoring
- E. Applicability of Department-Wide Regulations
- F. Availability of State Plans

STATE AGENCY CERTIFICATION

Attachment A

GOVERNOR'S CERTIFICATION

Section 2

IV-E STATE PLAN - STATE OF _____

Federal
State Statutory/Regulatory
Statutory/Regulatory

Policy References and References Citation(s) for Each section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of 472(a)(4) (and corresponding requirements of 473(a)(1)(B) of the Social Security Act), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

B. VOLUNTARY PLACEMENTS (State Option)

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| 472(f) | 1. Foster care maintenance payments are made in cases of voluntary placement of a minor child out of the home by or with the participation of the State Agency only if: |
| 472(d) | a. the State has fulfilled all of the requirements of 422(b)(9) (second occurrence) of the Act, and |
| 472(f)(1) | b. the assistance of the State Agency has been requested by the child's parent(s) or legal guardian(s), and |
| 472(f)(2) | c. there is a written voluntary placement agreement, binding on all parties to the agreement, which specifies at a minimum the legal status of the child |
| 472(c) (1)&(2) | 3. Foster care payments are made for the care of children in foster family homes, private child care institutions, or public child care institutions accommodating no more than 25 children, which are licensed by the State in which they are situated or have been approved by the agency in such State having responsibility for licensing or approving foster family homes or child care institutions. Federal reimbursement is not available for children who are in detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of delinquent children. |

D. CASE REVIEW SYSTEM

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| 45 CFR 1356. 21 (d) | 1. Case Plan To meet the case plan requirement of 471 (a)(16), 475(1) and 475(5)(A) of the Act, the State Agency has promulgated policy |
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materials and instructions for use by State and local staff to determine the appropriateness of and necessity for the foster care placement of the child. The case plan for each child must,

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| 471(a)(16) 45 CFR 1356.21(d)(1) | a. be a written document which is a discrete part of the case record, in a format determined by the State, which is available to the parent(s) or guardian(s) of the foster child; and |
| 45 CFR 1356. 21(d)(2) | b. be developed within a reasonable period, but no later than 60 days from the time the State Agency assumes responsibility for providing services, including placing the child; and |
| 45 CFR 1356. 21(d)(4) | c. after October 1, 1983, include a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family; and |
| 475(1)(A) | d. include a description of the type of home or institution in which the child is placed; and |
| | e. include a discussion of the appropriateness of the placement and how the responsible agency plans to carry out the judicial determination made with respect to the child in accordance with 472(a)(1) of Act; and |
| 475(1)(B) | f. include a plan for assuring that the child receives proper care and that services are provided to the parent(s) in order to improve the conditions in the parent's (parents') home to facilitate the child's return to his own home or the permanent placement of the child; and |
| 475(1)(B) | g. include a plan for assuring that services are provided to the child and foster parents in order to address the needs of the child while in foster care; and |
| | h. include a discussion of the appropriateness of the services that have been provided to the child under the plan; and |
| 475(1) | i. where appropriate, for a child 16 or over, include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living; and |
| 475(5)(A) 45 | j. be designed to achieve placement in the least restrictive (most family- |

CFR 1356. 21
(d)(3)

like) and most appropriate setting available and in close proximity to the parent's (parents') home consistent with the best interest and special needs of the child, which

475(5)(A) (i)

- k. if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parent(s), or in a different State, sets forth the reasons why such placement is in the best interests of the child; and

475(5)(A)(ii)

- l. if the child has been placed in foster care in a State outside the State in which the child's parent(s) are located, assure that an agency caseworker, of either State, visit the foster home or institution no less frequently than every 12 months and submit a report on the visit to the State agency of the State where the home of the child's parent(s) is located; and

475(5)(C)

- m. assure that the dispositional hearings determine whether an out-of-State placement continues to be appropriate and in the best interests of the child; and

475(1)(C)

- n. to the extent available and accessible, incorporate the health and education records of the child, including:
 - 1. the names and addresses of the child's health and educational providers;
 - 2. the child's grade level performance;
 - 3. the child's school record;
 - 4. assurances that the child's placement in foster care takes into account the proximity to the school in which the child is enrolled at the time of placement;
 - 5. a record of the child's immunizations;
 - 6. the child's known medical problems;
 - 7. the child's medications; and (8) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

- 2. Case Review The State Agency has a case review system which meets the requirements of 475(5) of the Act and assures that 475(5)(B) a. a review of each child's status will be made no less frequently than once every six months either by a court or by an administrative review to:

- 1. determine the continuing need for and appropriateness of the placement,

2. determine the extent of compliance with the case plan, determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement, and
3. project a likely date by which the child may be returned home or placed for adoption or legal guardianship.

- 475(6) b. If an administrative review is conducted, the following requirements specified in 475(6) of the Act will be met:
1. the review will be open to the participation of the parents of the child, and
 2. the review will be conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of, or delivery of services to either the child or the parents who are the subject of the review.

- 475(5)(C) 3. dispositional hearing, as described in 475(5)(C), must be held for each child in foster care under the responsibility of the State Agency if the State claims Federal reimbursement for the costs of voluntary foster care maintenance payments. To meet this requirement, the dispositional hearing must take place within 18 months of the date of the original foster care placement and not less frequently than every 12 months thereafter during the continuation of foster care. The provisions of 475(5)(C) of the Act must apply to all children under the responsibility for placement and care of the title IV-E/IV-B State Agency except:

- 45 CFR 1356. 21
(e) (1) a. for those children who are placed in a court sanctioned permanent foster home with a specific caregiver; and

- 45 CFR 1356. 21
(e) (1) b. for those children who are free for adoption and are placed in adoptive homes pending the finalization of the adoption.

- 475(5)(D) 4. A child's health and education record must be reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

E. MEDICAL AND SOCIAL SERVICES

- 472(h) 473(b)(1)
(B)(2) For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in 406 of the Act and shall be deemed to be a recipient of aid to families with dependent children under Part A of this title. Titles XIX and XX services shall be available to such child in the State in

which the child resides.

F. SPECIFIC GOALS IN STATE LAW

- 471(a)(14)(A) 1. The State agency will formulate **for each fiscal year**, commencing with the

G. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION

- 471(a)(18)(A)(B) The State shall have plan a approved by the Secretary, not later than January 1, 1997, which provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may--
- A. deny to any person the opportunity to become an adoptive or foster parent, on the basis of race, color, or national origin of the person, or of the child involved; or
 - B. delay or deny the placement of a child for adoption or into foster care, on the basis of race, color, or national origin of the adoptive or foster parent or the child involved.

Section 4

IV-E STATE PLAN - STATE OF _____

Federal
State Statutory/ Regulatory/Statutory/ Regulatory
Policy References and References
Citation (s) for Each

G. KINSHIP CARE

- 471(a)(18) * The State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards.

***A technical amendment to the PRWORA has been submitted to change section 471(a)(18) to 471(a)(19) because P.L. 104-188 also contained an amendment to section 471(a) of the Act which added paragraph 18 with different content.**

IV-E STATE PLAN - STATE OF _____

C E R T I F I C A T I O N

I hereby certify that I am authorized to submit amended pages for the State Plan on behalf of _____ (Designated State Agency)

Date _____

(Signature)

(Title)

APPROVAL DATE:

EFFECTIVE DATE:

IV-E STATE PLAN - STATE OF _____

A S S U R A N C E

I hereby assure that the State agency administering the title IV-E program obtained the relevant sections of the title IV-A State plan (as in effect in this State on June 1, 1995) and use them as the basis for making title IV-E eligibility determinations. I certify that I am authorized to submit, as an appendix to this State's title IV-E State plan, those relevant sections of the title IV-A State plan.

On behalf of _____
Designated State Agency)

Date

(Signature)

(Title)

APPROVAL DATE:

EFFECTIVE DATE:

(Signature ACF Regional Representative)