

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families	
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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, 473 and 475 of the Social Security Act (the Act); the Adoption and Safe Families Act of 1997, Public Law 105-89; the Child Support Performance and Incentive Act of 1998, Public Law 105-200; [ACYF-PI-88-07](#), "Title IV-E State Plan Revision;" and [ACYF-PI-97-04](#), "Title IV-E State Plan Amendments."

PURPOSE: The purpose of this Program Instruction (PI) is to notify States about amendments required to be made to their title IV-E State plans in response to legislative changes made by the Adoption and Safe Families Act (ASFA) and the Child Support Performance and Incentive Act.

BACKGROUND: The Adoption and Safe Families Act (Public Law 105-89) was enacted on November 19, 1997. This law made several amendments to titles IV-B and IV-E of the Act. In addition, the Child Support Performance and Incentive Act (Public Law 105-200), enacted on July 16, 1998, made several technical amendments to the Act. The amendments made by these laws to sections 471, 473 and 475 of the Act require revisions to Title IV-E State plans.

The effective date for States to be in compliance with ASFA was November 19, 1997, unless the State required the passage of State legislation to comply and a "delayed effective date" was granted or approved by the Department of Health and Human Services.

Listed below is a summary of amendments to the Act which require State plan revisions. Please do not solely rely on this information when amending your State plans, but rather refer to the actual statutory language in Public Law 105-89 and Public law 105-200.

Section 471(a)(15) of the Act was amended by:

- clarification of the importance of health and safety in making reasonable efforts determinations, including circumstances in which reasonable efforts are not required. This section also sets forth the requirements when a court finds reasonable efforts have not been made.

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

- subsection (20), which requires criminal records checks (unless the State opts out) for prospective foster and adoptive parents;
- subsection (21), which requires health insurance coverage for non-title IV-E eligible children with special needs who otherwise could not be adopted due to their special needs for medical, mental health or rehabilitative care;
- subsection (22), which requires the implementation of State standards to ensure quality services for children in foster care; and
- subsection (23), which prohibits a State from denying or delaying the placement of a child for adoption when an approved family is available in another jurisdiction. This section also prohibits a State from denying an opportunity for a fair hearing to an individual who alleges a violation of this requirement.

Section 473(a)(2) of the Act was amended to:

- provide continued eligibility for title IV-E adoption assistance payments on behalf of children who were receiving title IV-E adoption assistance until their adoption was dissolved or the parents died and were subsequently adopted on or after October 1, 1997.

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

- including a requirement that certain safety considerations be addressed in the case plan

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

- the addition of subparagraph (E), which requires documentation in the case plan of the efforts made by the agency to place a child in a permanent home.

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

- including safety considerations in the case review system.

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

- changing the name of the hearing required under the case review system from "dispositional" to "permanency" hearing;
- shortening the time frame for the initial hearing from 18 months to 12 months;

- changing the date to start the clock for such hearings from the date of the original placement to the date the child was to have entered foster care; and
- changing the requirement for what must be determined in the permanency hearings to emphasize that these hearings must determine a specific permanency plan for a child. This change more clearly defines the purpose of the permanency hearing.

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

- the addition of subparagraph (E), which requires States to file a petition or join existing proceedings within a specified time to terminate parental rights for certain children in foster care and, concurrently, to find a qualified adoptive family. This must be phased in over time for children currently in foster care. (The requirements of subparagraph (E) must be treated as State plan requirements imposed by section 471(a) of the Act);
- the addition of subparagraph (F), which defines when a child is considered to have entered foster care; and
- the addition of subparagraph (G), which requires States to provide foster parents, preadoptive parents or caretaker relatives with notice of, and an opportunity to be heard in a review or hearing to be held with respect to the child.

INSTRUCTION:

Each State must submit amendments to its title IV-E State plan to reflect the new requirements of sections 471, 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 summarized and set forth in the law.

1. For States using the preprinted title IV-E State plan revision format:
 - replace the cover page; pages 1 and 2 of the Table of Contents; pages 8, 9, 10, 11, 12, and 13 of Section 2; pages 4, 5 and 8 of Section 3; and pages 3 and 4 of Section 4.
 - Insert pages 14, 15 and 16 in Section 2.
2. For States using their own format:
 - include the pertinent Federal requirements; and
 - record the applicable State statutory, regulatory, policy references and citations for each Federal requirement.

States are to submit the following documents to the appropriate ACF Regional Administrator for approval: 1) the title IV-E State plan amendments, citing the State statutory or regulatory policy references for each and indicating if the amendments are currently in place and, if not, the date on which they will be effective; and 2) 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.

/s/

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

[Attachment:](#) State Plan Preprint

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 of _____

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES
CHILDREN'S BUREAU
1998

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

FOSTER CARE AND ADOPTION ASSISTANCE

STATE OF _____

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STATE AGENCY CERTIFICATION

Attachment A

Title IV-E State Plan - State of	Section 2
Federal Statutory/Regulatory	State Citations for Each
References	
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 safety and 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 the Act; and Currently in place:_____ Will be met by:_____
475(1)(B)	f. include a plan for assuring that the child receives safe and proper care and 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 safe home or the permanent placement of the child; and Currently in place:_____ Will be met by:_____
	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
475(1)(B)	h. include a discussion of the appropriateness of the services that have been provided to the child under the plan; and
475(1)(D)	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(1)(E)	<p>j. in the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems; and</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
475(5)(A) 45 CFR 1356.21 (d)(3)	<p>k. be designed to achieve placement in a safe setting that is the least restrictive (most family-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,</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
475(5)(A) (i)	<p>1. 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 a placement is in the best interests of the child; and</p>
475(5)(A) (ii)	<p>1. 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</p>

475(5)(C)	<p>m. assure that the permanency hearings determine whether an out-of-State placement continues to be appropriate and in the best interests of the child; and</p> <p>Currently in place: _____ Will be met by: _____</p>
475(1)(C)	<p>n. to the extent available and accessible, incorporate the health and education records of the child, including:</p> <ol style="list-style-type: none"> 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.
<p>2. Case Review</p> <p>The State Agency has a case review system which meets the requirements of 475(5) of the Act and assures that</p>	
475(5)(B)	<p>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 administrative review to:</p> <ol style="list-style-type: none"> 1. determine the safety of the child, the continuing need for and appropriateness of the placement, 2. determine the extent of compliance with the case plan, 3. determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement, and 4. project a likely date by which the child may be returned and safely maintained at

	<p>home or placed for adoption or legal guardianship.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
475(6)	<p>b. If an administrative review is conducted, the following requirements specified in 475(6) of the Act will be met:</p> <ol style="list-style-type: none"> 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)	<p>3. A permanency hearing must be held for all children under the responsibility for placement and care of the title IV-E/IV-B State agency, including children for whom the State claims Federal reimbursement for the costs of voluntary foster care maintenance payments. To meet this requirement, the permanency hearing must take place within 12 months of the date the child is considered to have entered foster care (as defined within the meaning of 475(5)(F)) and not less frequently than every 12 months thereafter during the continuation of foster care. The only exceptions to this requirement are:</p> <ol style="list-style-type: none"> a. for those children who are placed in a court sanctioned permanent foster home with a specific caregiver; and; b. for those children who are free for adoption and are placed in adoptive homes pending the finalization of the adoption. <p>For the purposes of this requirement, a permanency hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition</p>

	<p>for termination of parental rights, or referred to legal guardianship, or (in cases where the State agency has documented to the State court a compelling reasons for determining that it would not be in the best interest of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
475(5)(D)	<p>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.</p>
475(5)(G)	<p>5. The foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
	E. MEDICAL AND SOCIAL SERVICES
472(h) 473(b)(1) (B)(2)	<p>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.</p>

	F. SPECIFIC GOALS IN STATE LAW
471(a) (14)(A)	1. The State agency will formulate for each fiscal year, commencing with the fiscal year which begins October 1, 1983, a specific goal as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care receiving assistance under a State title IV-E program) who at any given time during the fiscal year will have been in foster care for over 24 months.
471(a)(14) (B)	2. The State Agency will describe the steps which will be taken to achieve the specific goal established.
471(a)(14)	3. The specific goal for the first fiscal year will be established by the State in law on or before October 1, 1982.
	G. PREVENTIVE AND REUNIFICATION SERVICES
471(a)(15) (A)& (B)	<p>When making reasonable efforts, the child's health and safety shall be the paramount concern. Reasonable efforts shall be made to preserve and reunify families, to prevent or eliminate the need for removing the child from the child's home, and to make it possible for the child to safely return to the child's home.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(15) (C)	<p>If continuation of reasonable efforts as described in section 471(a)(15)(B) of the Act is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(15) (D)	Reasonable efforts as described at section 471(a)(15)(B) shall not be required to be made with respect to a parent

	<p>of a child if a court of competent jurisdiction has determined that--</p> <ul style="list-style-type: none"> i. the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, or sexual abuse; and ii. the parent has-- <ul style="list-style-type: none"> I. committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent; II. committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent; III. aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or IV. committed a felony assault that results in serious bodily injury to the child or another child of the parent; or iii. the parental rights of the parent to a sibling have been terminated involuntarily; <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(15) (E)	<p>if reasonable efforts of the type described in section 471(a)(15)(B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with paragraph (D)--</p> <ul style="list-style-type: none"> i. a permanency hearing (as described in section 475(5)(C)) shall be held for the child within 30 days after the determination; and ii. reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps

	<p>are necessary to finalize the permanent placement of the child; and reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described at section 471(a)(15)(B).</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(22)	<p>Effective January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
	H. TERMINATION OF PARENTAL RIGHTS
475(5)(E)	<p>The State Agency will, in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant, or has made a determination that the parent has committed murder of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents, and concurrently, to identify, recruit, process and approve a qualified family for adoption unless:</p> <ul style="list-style-type: none"> a. the child is being cared for by a relative, at State option; b. a State agency has documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child; or c. the State has not provided the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home.

	<p>Currently in place:_____</p> <p>Will be met by:_____</p>
475(5)(F)	<p>A child shall be considered to have entered foster care on the earlier of:</p> <ul style="list-style-type: none"> a. the date of the first judicial finding that the child has been subjected to child abuse or neglect; or b. the date that is 60 days after the date on which the child is removed from the home. <p>Currently in place:_____</p> <p>Will be met by:_____</p>
473(a)(2) (C)	<ul style="list-style-type: none"> c. has been determined by the State to be a child with special needs.
473(a)(2)(C)	<p>Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements to receive adoption assistance payments.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
	B. PAYMENTS - AMOUNTS AND CONDITIONS
473(a)(1) (B)(i)	<ul style="list-style-type: none"> 1. Payments shall be made for nonrecurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a child with special needs, directly through the State Agency or through another public or nonprofit private agency, in amounts determined through an

	agreement with the adoptive parents, and
473(a)(1) (B)(ii)	2. in any case where the child meets the requirements of 473(a)(2) of the Act, the State may make adoption assistance payments to adoptive parents, directly through the State Agency or through another public or nonprofit private agency, in amounts so determined through an adoption assistance agreement (see section 3C of this plan). The amount of such payment:
473(a)(3)	<ul style="list-style-type: none"> a. shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted; b. may be adjusted periodically with the concurrence of the adoptive parents to reflect changing circumstances; and c. may not exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.
45 CFR 1356. 40(d)	3. In determining eligibility for adoption assistance payments, there is no income eligibility requirement (means test) for the adoptive parents.
473(a)(4) (A) 473(a)(4) (B)	4. Payments are terminated when the State determines that <ul style="list-style-type: none"> a. the child has attained the age of 18 (or, where the State determined that the child has a mental or physical handicap which warrants the continuation of assistance, the age of 21), or b. the parents are no longer legally responsible for the support of the child, or c. the child is no longer receiving support from the adoptive parents.
	D. MEDICAID AND SOCIAL SERVICES
473(b)(1)(B) 473(a)(2)	For the purposes of titles XIX and XX, any eligible child for whom there is an adoption assistance agreement in

	effect under 473(a)(2) (whether or not adoption assistance payments are being made) shall be deemed to be a dependent child as defined in 406 of the Act and shall be deemed to be a recipient of AFDC under part A of title IV of the Act in the State in which such child resides.
471(a)(21) (A)&(B)	<p>The State shall provide health insurance coverage (through one or more State medical assistance programs), with the same type and kind of benefits as those which would be provided for children by the State under title XIX, or a comparable State medical plan, for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance due to special needs for medical, mental health or rehabilitative care.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(21)(C) 471(a)(21)(D)	<p>in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
	F. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION
471(a)(18) (A)(B)	<p>The State shall have a plan 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--</p> <p>A. deny to any person the opportunity to become an</p>

	<p>adoptive or foster parent, on the basis of race, color, or national origin of the person, or of the child involved; or</p> <p>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.</p>
	G. KINSHIP CARE
471(a)(19)	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.
	H. CRIMINAL BACKGROUND CHECKS
471(a)(20) (A)	The State Agency shall implement procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance or adoption assistance payments are to be made, including procedures that:
	<p>a. in any case in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and</p> <p>b. in any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>
471(a)(20) (B)	If the Governor of the State has notified the Secretary in writing that the State has elected to make 471(a)(20)(A) inapplicable to the State, or if the State legislature, by law, has elected to make 471(a)(20)(A) inapplicable to the State, 471(a)(20)(A) shall not apply.

	<p>Currently in place:_____</p> <p>Will be met by:_____</p>
	<p>I. INTERJURISDICTIONAL ADOPTION</p>
<p>471(a)(23)(1)471(a)(23)(2)</p>	<p>The State shall not deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or</p> <p>Fail to grant an opportunity for a fair hearing, as described in section 471(a)(12), to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.</p> <p>Currently in place:_____</p> <p>Will be met by:_____</p>