

# Adoption Policy

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West Virginia Department of Health and Human Resources  
Bureau for Social Services  
Office of Children and Adult Services  
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## SECTION 1 – INTRODUCTION AND OVERVIEW

### 1.1 Mission and Vision

“The Bureau for Social Services provides an accessible, integrated, comprehensive quality service system for West Virginia’s children, families, and adults to help them achieve maximum potential and improve their quality of life.” Our vision: “West Virginia’s children, families, and adults have achieved well-being, safety, and independence.”

### 1.2 Philosophy

Safety is the paramount concern that must guide all child welfare services. When making decisions about a child, including those decisions regarding services provided, placement, and permanency planning, the safety of the child must be the foremost issue in determining what is in the best interest of the child.

Permanency planning efforts should begin as soon as a child enters the custody of the Department. A child is to be placed in out of home care only when appropriate and when efforts to strengthen the family’s situation have failed or when the child’s safety is at risk. Concurrent planning should be utilized to allow staff to work to reunify the family while simultaneously planning for the possibility that reunification will not succeed. All possible resources should be considered in order to arrive at the least restrictive, appropriate environment for the child. Priority consideration should be given to the child’s relatives for the most suitable placement. If no appropriate relatives are available, the child will be placed in a foster/adoptive home that best meets the child’s needs, is willing to help facilitate reunification with the child’s family and is also willing to become a permanent adoptive placement for the child if reunification efforts do not succeed.

The creation of a permanent family for children in custody is the main objective for children whose parental rights have been terminated. Adoption must be the primary choice for permanency planning, with other alternatives being considered only after adoption has been ruled out. The Department will promote quality standards for adoption services, pre-placement, and post-placement to protect the rights of these children and provide them with permanent homes. The Department will identify and implement services necessary to assure the successful consummation of the adoption and provide post-adoptive support to the child and the family.

### 1.3 Legal/Regulatory Basis

#### 1.3.1 Federal Legislation

Pressure to reform the child welfare system has evolved along two major themes: out of home care services for children should be provided in the least restrictive, appropriate environment and permanency for children shall be a primary goal of services. With the enactment of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), states were mandated to promote permanency planning for all children in out of home care and for children at risk of removal from their homes. States were also required to make reasonable efforts to prevent the out of home placement of a child and to reunify children already removed from their homes.

In 1993, Congress enacted the Family Preservation and Family Support Services Program (P.L. 103-66) which provided additional funding for preventive services and crisis services for children and families at risk of entering the foster care system.

In response to major concerns about the extended length of stay and poor outcomes for minority children and the prevalence of using race to determine placements for children in foster care, the Multiethnic Placement Act (P. L. 103-382) and the Interethnic Placement Provisions (P.L. 104-188) were enacted. This legislation forbids the delay or denial of a foster or adoptive placement based solely on the race, color, ethnicity, or national origin of the prospective foster parent, adoptive parent or the child involved. It also compels states to make diligent efforts to recruit and retain foster/adoptive families that reflect the racial and ethnic diversity of the children for whom foster/adoptive homes are needed.

The Adoption and Safe Families Act of 1997 (P.L. 105-89) was enacted to ensure that children's safety would be the paramount concern of all child welfare decision making and to promote the adoption of children who cannot return safely to their own homes. This law has five key principles: safety is the paramount concern that must guide all child welfare services; foster care is temporary; permanency planning efforts should begin as soon as a child enters care; the child welfare system must focus on results and accountability; and innovative approaches are needed to achieve the goals of safety, permanency, and well-being.

The Child Abuse Prevention and Treatment Act (CAPTA, P.L. 93-247) is one of the key pieces of legislation that guides child protection. CAPTA, in its original inception, was signed into law in 1974 (P.L. 93-247). It was reauthorized in 1978, 1984, 1988, 1992, and 1996, and with each reauthorization, amendments have been made to CAPTA that have expanded and refined the scope of the law. CAPTA was most recently reauthorized on June 25, 2003, by the Keeping Children and Families Safe Act of 2003 (P.L. 108-36)

On October 7, 2008, President Bush signed into law the Fostering Connections to Success and Increasing Adoptions Act. This legislation addresses some of the important needs affecting foster children, including extending federal foster care payments to 21 years old, providing federal support to relatives caring for foster children, increasing access to foster care and adoption services to Native American tribes, and improving the oversight of the health and education needs of children in foster care.

### **1.3.2 State Statute**

The West Virginia Code Chapter 49 and Chapter 48 legislates a coordinated system of child welfare for the children of the state of West Virginia. This statute allows the Department to accept custody of children and place them outside of their families of origin in order to protect and care for them. If parental rights have not been terminated, it is the responsibility of the Department to help parents stay involved in their children's lives by exercising their remaining rights and responsibilities concerning their children. If parental rights have been terminated, it is the responsibility of the Department to accept guardianship of children and consent to their adoption.

### 1.3.3 Federal Supreme Court Decisions

The Yokum decision determined states may not discriminate against relative/kinship care providers in placement decisions in cases in which the state has custody of a child in foster care.

## SECTION 2 - DEFINITIONS

**Abandonment** - Any conduct by the birth mother, legal father, determined father, unknown father or putative father that demonstrates a purpose to forego all duties and relinquish all parental claims to the child.

**Adoptee** - A person who has been legally adopted in the state of West Virginia.

**Adoption** - The judicial act of creating the relationship of parent and child where it did not previously exist.

**Adoption Ready** - A child who is placed in a family setting; has a permanency plan of adoption; and is legally free for adoption through death, relinquishment, or termination of parental rights of all known and unknown parents; and all required paperwork and documentation has been obtained according to the "Adoption Transfer Referral and Checklist Form".

**Adoptive Parents** - Those persons who, after adoption, are the mother and father of the child.

**Adult** - A person who is eighteen years of age or older.

**Agency** - A public or private entity, including the Department of Health and Human Resources, that is authorized by law to place children for adoption.

**Birth Father** - The biological father of the child.

**Birth Mother** - The biological mother of the child.

**Closed Adoption** - An adoption in which identifying information about the birth parents and adoptive parents is considered confidential and is not made available as a result of state law and/or court order.

**Comprehensive Child Welfare Information System (CCWIS)** - A statewide computerized case management system for all Child Welfare and Adult Service Programs. This system is in compliance with Federal requirements for a Statewide Automated Child Welfare Information System.

**Concurrent Planning** - A Permanency planning strategy for assuring an expedient permanent placement for a child by simultaneously planning for reunification and an alternative permanent placement such as adoption.

Consent - The voluntary surrender to an individual, not an agency, by a minor child's parent or guardian, for purposes of the child's adoption, of the rights of the parent or guardian with respect to the child, including the legal and physical custody of the child.

Crime Victim's Compensation Fund- A special revenue fund within the state Treasury established by the Crime Victims Compensation Act, created by the West Virginia Legislature, which can be utilized for victims of crimes (including minors in civil abuse and neglect cases) for payment of expenses attributed to or caused by their victimization. See also Foster Care Policy 5.12. ([W. Va. Code §14-2A-11a](#))

Criminal Identification Bureau Record (CIB) - A fingerprinting process that identifies those who have been arrested or convicted of a criminal act or behavior.

Determined Father - Before adoption, a person: (1) In whom paternity has been established pursuant to the provisions of article 24-101 and section 16-5-12 of the W.Va. Code, by adjudication or acknowledgement; or (2) who has been otherwise judicially determined to be the biological father of the child entitled to parental rights; or (3) who has asserted his paternity of the child in an action that is pending at the time of the filing of the adoption petition.

Disruption - An occurrence that results in the decision by the pre-adoptive parent or mutually by the child and pre-adoptive parent that the placement will not continue, or the adoption will not be consummated.

Genetic and Social History - A comprehensive report on the birth parents, siblings, grandparents, etc., which shall contain the following information: Medical history, health status, cause of and age at death, height, weight, eye and hair color, ethnic origins, levels of educational and professional achievement, and religion.

Guardian Ad Litem (GAL) - The court appointed attorney assigned to the child during the abuse and neglect proceedings. This person's responsibility to the child continues until permanency is achieved.

Health History - A comprehensive report of the child's health status at the time of placement for adoption and medical history, including neonatal, psychological, physiological, and medical care history.

Legal Father - Before adoption, the male person having the legal relationship of parent to a child: (1) Who is married to its mother at the time of conception; or (2) who is married to its mother at the time of birth of the child; or (3) who is the biological father of the child and who marries the mother before an adoption of the child.

Legal Guardian - a person who has the legal authority (and the corresponding duty) to care for the personal and property interests of another person, called a ward.

Legal Guardianship – a child who has a legal guardian determined through a court process.

Legal Risk Placement - The placement of a child whose parents' rights have not yet been terminated with a family approved as both foster parents and adoptive parents.

Open Adoption - An arrangement that recognizes the child's connection to both the birth family and the adoptive family by supporting interaction among the birth parent, adoptive parents and the child through telephone calls, correspondence, or personal contact.

Outsider Father - The biological father of a child born to or conceived by the mother while she is married to another man who is not the biological father of the child.

Putative Father - Before adoption, any man named by the mother as a possible biological father of the child pursuant to the provisions of section 22-502, W.Va. Code, who is not a legal or determined father.

Relinquishment - The voluntary surrender to an agency by a minor child's parent or guardian, for purposes of the child's adoption, of the rights of the parent or guardian with respect to the child, including the legal and physical custody of the child.

State Ward – A child who has had all parents' rights terminated either by legal action, relinquishment, or death.

Stepparent Adoption - An adoption in which the petitioner for adoption is married to one of the birth parents or adoptive parents of the child.

Unknown Father - A biological father whose identity the biological mother swears is unknown to her before adoption.

## **SECTION 3 – HOW CHILDREN ENTER STATE'S CUSTODY**

### **3.1 How Children Enter Foster Care**

There are six separate avenues through which children may enter foster care. Each requires specific actions by the parents, child, legal system, and the Department.

1. A parent may request temporary help in caring for their child while a family crisis is resolved. (Voluntary Placement)
2. A parent may request help in meeting the child's physical or mental health needs. (Voluntary Placement)
3. Child Protective Services or law enforcement may take a child into emergency custody, or a petition may be filed alleging abuse/neglect after completing an assessment

- of a family assessment that finds the child unsafe. (Emergency Custody/Temporary Custody)
4. A status offense has brought the child to the attention of the juvenile court. (Temporary Custody)
  5. The child has been charged and/or adjudicated as a delinquent for engaging in criminal behavior. (Temporary Custody)
  6. A former foster care youth, age 18 or older, may decide to continue living as a foster child provided that the youth meets one of the following criteria:

- The child is completing secondary education or a program leading to an equivalent credential;
- The child is enrolled in an institution which provides post-secondary or vocational education;
- The child is employed for at least 80 hours per month; or
- The child is participating in a program or activity designed to promote, or remove barriers to, employment;
- The child is incapable of doing any of the above-described activities due to a medical condition.

The youth must sign a consent to continue in foster care through the SS-FC-18 contract.

Whatever the reason, it is the worker's responsibility to determine the least restrictive placement for the child and one that will best meet the child's needs.

### **3.2 Legal Authority for Adoptive Placement**

For the Department to have the right to place a child for adoption and later to give formal consent to their adoption, the Department must obtain legal guardianship of the child. Children can be committed to the guardianship of the state either through the voluntary relinquishment of the parental rights executed by the parents or by court order. Court rules will apply in the case of voluntary relinquishment by the court. Termination of parental rights (voluntary or court-ordered) represents the single most important decision in a child's life and must be subject to review by more than one representative of the Department.

### **3.3 Permission to Accept Guardianship**

The permission of the Regional Program Manager or designee is required before a relinquishment is accepted for any child and before any petition seeking guardianship is filed (In some regions, the designee may be the Multi-disciplinary Team). The case record or a summary of the child and their family should be sent to the Regional Program Manager or Designee requesting permission to accept the child as a State Ward. The permanent parental rights shall not be terminated if a child fourteen (14) years of age or older or otherwise of an age of discretion as determined by the court, objects to the termination.

### 3.4 Required Consents

The consent to adopt or relinquishment for adoption of a minor child is required of the birth mother, the biological father, the legal father and/or the determined father of the child.

Consent is not required of anyone having custody of the adoptive child if their parental rights have been terminated or the court has found they have abandoned the child.

In a stepparent adoption, if a person is the birth parent or adoptive parent of the child and is married to the person who is petitioning to adopt, the birth or adoptive parent must also be a party to the petition for adoption.

If the child to be adopted is twelve years of age or over, the consent of the child is required to be given in the presence of a judge of the court unless waived by the court.

### 3.5 Acknowledgement of Relinquishment

The relinquishment must be acknowledged before a notary who is not an employee of the Department in order to preserve the integrity of the consent.

### 3.6 Relinquishment Process

Three originals of the revised form SS-FC-47 are required for a relinquishment, with all applicable parts completed. Two of the originals must be filed in the child's case record. The third original is given to the person agreeing to and executing the relinquishment.

All appropriate parties must sign the relinquishment.

### 3.7 Abandonment

A relinquishment in which the father is unknown requires the completion of Form SS-FC-47a in addition to Form SS-FC-47. Although not required, the statute regulating adoption permits the Department to address the parental rights of an unknown or absent parent at the time a relinquishment is executed. It is recommended practice for the worker to address these rights at the time of the relinquishment rather than wait until the adoption hearing. Otherwise, if the absent parent or unknown parent should appear very close to or at the adoption hearing, the adoption process could be delayed.

### 3.8 Termination of Parental Rights Due to Abandonment

If the unknown, legal, determined, outsider or putative father has not executed a relinquishment at the time a relinquishment is signed by the child's mother, the worker should take the following actions:

1. The worker should determine whether or not the father has abandoned the child (W. Va. Code §[48-22-306](#))



2. If the child has been abandoned, the worker should, with the worker's supervisor's approval, petition the Circuit Court for termination of parental rights. (W.Va. Code [§49-4-114](#))

### 3.9 Documentation

Whenever a relinquishment is accepted, any interviews must be documented as contacts in CCWIS. This information should include the following:

- The reasons cited by the parent for the relinquishment;
- Whether or not counseling sessions were offered prior to and following the relinquishment and, if so, whether they were accepted;
- The results of any counseling sessions;
- The parent's understanding of the actions being taken; and
- Any other information the worker considers appropriate and necessary to explain or describe the actions taken in the case.

### 3.10 Relinquishment by a Minor Parent

If the person who executes a consent to relinquishment is under eighteen (18) years of age and that person is a resident of the state, the following rules apply:

- The consent to relinquishment must be reviewed and approved by the judge of the circuit court.
- The court may appoint a guardian ad litem to represent the interest of the minor parent. If a guardian is appointed, that person must conduct a discreet inquiry into the circumstances surrounding the consent. During this inquiry, Department staff must cooperate with the guardian and must make available all appropriate information.

Note: The failure of the court to appoint a guardian ad litem is not grounds for setting aside an adoption.

### 3.11 Revocation of Relinquishment

A revocation of relinquishment may be sought by a parent as a result of alleged fraud or duress or because the relinquishment process was flawed. (W.Va. Code [§48-22-305](#)) Staff must thoroughly document all their actions and follow all applicable procedures in order to avoid revocation. A well-documented, up-to-date record is often the best defense against allegations that the process was not properly or completely implemented.

## SECTION 4 – PLACEMENT REQUIREMENTS

### 4.1 Child Assessment

The individual child's needs must be assessed prior to placement, if possible, so an appropriate living arrangement can be chosen. This assessment will include information regarding the following:

1. The presenting problem necessitating the child's removal from the home.
2. A summary of services that have previously or are currently being provided to address the problem.
3. Current educational information.
4. Current medical information.
5. A history of separations, losses, and maltreatment.
6. The child's physical, mental, emotional, behavioral, and developmental characteristics.
7. The problems that are to be addressed in the Child, Youth and Family Case Plan.

### 4.2 The Search for Relatives

Because of the need for the child to be removed from their home on an emergency basis and placed in a safe environment, there is often no formal referral process for placing a child in a kinship/relative placement. Nevertheless, when a child must be placed with a relative, information about the child and their family must be gathered.

The child's worker must, according to federal law and W.Va. Code §49-4-601a, identify and review the child's relatives as possible placement resources before a child is placed into a non-relative foster/adoptive home or group/residential facility. Any person related to the child by blood or marriage, including cousins and in-laws should be considered for kinship/relative care. A person the child considers a relative, such as a godparent or close family friend, may also be considered as a placement resource. Relatives may not be approved as a placement until the Home Finding Unit, or comparable agency staff in another state via the Interstate Compact on the Placement of Children, has assessed the relatives' ability to provide for the care and safety of the child. If the Home Finding Specialist, or comparable agency staff in another state via the Interstate Compact on the Placement of Children, finds that the relative can meet the certification requirements for becoming a foster/adoptive family, the relative may become the child's caretaker as a relative foster/adoptive family. According to federal requirements, all relative caretakers must meet the same certification standards as all foster/adoptive parents.

Placing a child who needs out of home care with a relative is the least restrictive alternative living arrangement since this placement often allows for more interaction with the child's own family and relatives and often results in a less traumatic separation. The worker shall account for the following issues when placement with a relative is being considered:

1. Careful evaluation indicates the relative will be supportive of the goals of the placement.
2. It appears the child may be more accepting of separation from their own parents if they are to be placed with a relative with whom they are more familiar.
3. The child has formed a positive relationship with the relative and is already familiar with the lifestyle and expectations of the relative's family.
4. The child, through placement with a relative, can maintain some relationship with their family.
5. The child's parents are supportive of the planned placement with the relative and will cooperate in the process.
6. An evaluation of the relative's home indicates that it would not perpetuate the same negative family patterns necessitating the removal from the child's own home.
7. The geographic proximity of the relative's home allows for continued planned involvement with the child's parents.
8. The relatives have the physical, mental, and emotional ability to provide care for the child.

#### Worker Actions

The child's worker must document in CCWIS on the client's characteristics screen, placement plan screen, and the placement recommendation screen the child's characteristics identified that make placement with a relative appropriate. The child's worker must also document the appropriate information in CCWIS on the provider recommendation screen and the placement safety evaluation screen.

### 4.3 Relative Placement

While the Department is required to look for relatives as placement options, the worker must take specific actions if the Department is planning to petition the court for or take emergency custody of a child and place the child in the home of a relative.

1. The relative must be screened as an appropriate Kinship/Relative Placement by the child's worker by utilizing the Kinship/Relative Home Study Request Packet before the placement occurs. The relative must sign this form with the original form maintained in the family's CPS case record and a copy provided to the Home Finding Supervisor of that region. The home study request packet must be completed and sent to the Regional Home Finding Supervisor within 24 hours of placement.
2. The child's worker will provide the relatives with the SS-FC-6A, agreement to care for the child placed in the home. The relatives must sign this form and be provided a copy as proof that the Department has agreed to the placement of this child.
3. The child's worker must notify the Regional Home Finding Supervisor within 24 hours of the placement and provide the Regional Home Finding Supervisor with any information about the relative that is required to be entered into CCWIS, so a Kinship/Relative Provider Record can be opened on the family.

4. The child's worker must document the placement of the child with the relative in CCWIS as a Kinship/Relative placement, once the Home Finding Specialist has opened the relative as a Kinship/Relative Provider. This placement type will not generate any benefits to the relative, so the child's worker should provide the relative with any assistance to apply for SSI, TANF benefits and/or a medical card for the child. After approval as a certified foster/adoptive parent, the relative must notify Income Maintenance in order to have the TANF benefit discontinued.
5. If the court gives the Department legal custody of a child and orders the child placed with a relative, the child's worker must place the child in the relative's home. The child's worker must still complete the Kinship/Relative Home Study Request Packet and have the relative sign the form as indicated in step one. If the relative does not meet the standards of the Kinship/Relative Home study, the child's worker shall make the court aware that the relative home is not an appropriate placement for the child. The child's worker should present to the court another relative as an alternative, more appropriate placement for the child.
6. The child's worker will then inform the Home Finding Unit, or the Interstate Compact on the Placement of Children Administrator if the family lives out of state, within five (5) days of placement of the placement and request an assessment of the relative. Under no circumstances shall boarding care be paid to a kinship/relative caretaker prior to the relative completing all the requirements necessary to become a foster family. The assessment must take priority and should be completed within forty-five (45) days from the date of placement of the child in the relative's home. The relative should attend pre-service foster/adoptive parent PRIDE training if it is offered during the assessment period but will have up to six (6) months, from the date the home study was initiated, to attend the pre-service foster/adoptive parent training. The home study may be approved prior to the training requirement being fulfilled if all other requirements have been met. \*\* When a home study is requested on a potential kinship/relative resource for a child, the Kinship/Relative Home Study Request Packet must be completed prior to the request being submitted to the Home Finding Supervisor. The assessment will still take priority and should be completed within forty-five (45) days from the date that the request was received.
7. If the relatives cannot meet the certification requirements as determined by the Home Finding Unit, or comparable agency staff of another state via Interstate Compact on the Placement of Children, the worker will report this finding to the court and ask for a reconsideration of the placement and remove the child from the home if already placed with the relative. If the court and/or the Multidisciplinary Treatment Team feel that this placement is in the best interest of the child, the child's worker may request that the court transfer legal custody of the child from the Department to the relative at disposition. The family may apply for the TANF Child Only Caretaker Check through the Office of Family Support. This would also provide the child with medical care. Prior to transfer of custody from the Department, all children in these placements will be considered eligible for all the services and protections of children who are in paid foster care placements.

8. If the relatives meet the certification requirements as determined by the Home Finding Unit, or comparable agency staff in another state via Interstate Compact on the Placement of Children, the Home Finding Specialist will enter the relatives in CCWIS as a foster/adoptive home within three business days of approval of the family or the child's worker forwarding the other state's approved home study and family's signed W-9.
9. If the child has not been placed with the relative prior to approval of the home, the child's worker shall arrange a date for the placement. The placement should occur in a timely manner following the intake or pre-placement visit. It is possible for the intake interview and pre-placement visit to occur on the same day as the placement. This is not appropriate in most situations and should only be utilized when necessary.
10. The child's worker will participate in the actual placement and will provide transportation for the child and their family.
11. The child's placement effective date will be entered in CCWIS within 24 hours of the placement. This will also generate a medical card for the child within a timely manner. In addition, this will also ensure that the child has an EPSDT Health Check screening scheduled within the five (5) daytime frame required by the Sanders Consent Decree.
12. If the child was in foster care prior to this placement, the child's medical card is to be given to the relative foster/adoptive family in case medical services are required prior to the issuance of a card to the relative foster family for the child. If the child was not in foster care prior to this placement or the child's medical card cannot be located, the child's worker will provide the SS-FC-40 and SS-FC-40A to the caretaker for the child's emergency medical needs.
13. If one of the child's parents is not known to the Department, the child's worker will immediately initiate efforts to locate the absent or unknown parent as a possible placement resource for the child and to include that parent on all court documents.
14. The child's worker will notify the Office of Child Support Enforcement and the Office of Family Support of the child's placement in foster care if appropriate.
15. The child's worker shall assess the child's initial placement clothing needs and complete a written inventory of the child's personal belongings.
16. If the child is being placed outside their current school district, the worker must notify both schools of the child's new living arrangements within three business days of the placement and arrange to have the child's school records transferred to the new school. (See foster care policy section 2.6.2. (i) General Placement Activities for further information regarding education stability for foster children.)
17. The child's worker will complete the Birth Parents Background Information merge form (SS-FC-12) and the Birth and Medical History of the Child merge form (SS-FC-12A) in CCWIS within the first thirty days of the child's placement.
18. The child's worker will ensure that the foster parents purchase an appropriate life book for the child. The worker with the assistance of the relative foster/adoptive parents will gather pictures; drawings; vital information about the child's biological parents, siblings, extended family, pets; how the child was raised in terms of culture and religion; school information; family memories; etc. to be included in the child's life book that will follow the child through all foster care placements until he is released

- from the foster care system. It will be the responsibility of the child's worker to make sure that the child's life book is maintained and updated through each placement. These updates may be completed during Multidisciplinary Treatment Team meetings, family visits, between the biological parents and the relative foster family.
19. The child's worker will document all placement contacts in CCWIS on the visitation log screen including progress reports and case staffing's as appropriate.
  20. If adjustment problems are anticipated by the child's worker, these are to be discussed with the foster parents at the time of placement.
  21. The child's worker will document on the child's assessment screen in CCWIS. Education information will be documented on the child's employment/education screen. Immunization and health information will be documented on the child's client characteristics screen in CCWIS.
  22. The child's worker will make sure that the child's Youth Identification Card is obtained through the Department of Motor Vehicles (DMV) and has been provided to the foster parent at placement or that the process to obtain the child's Youth Identification Card has been initiated.

#### 4.4 Sibling Placement

W.Va. Code §49-4-111 requires the Department to place siblings together when placing a child in foster care who also has siblings in care. Siblings are defined by W.Va. Code §49-1-204 as "Children who have at least one biological parent in common or who have been legally adopted by the same parents or parent."

Bureau for Social Services defines a sibling as: Any individual who the child considers to be a sibling or an individual who satisfies at least one of the following conditions with respect to a specific child: 1) The individual is considered by state/tribal law to be a sibling of the child; 2) The individual would have been considered a sibling of the child under state/tribal law but for a termination or other disruption of parental rights, such as the death of a parent.

#### Worker Actions

In all cases in which a child is to be placed, the worker must ask the child's caretakers, at the time of placement, if they have other children in foster care or other children for whom their rights have been terminated. If so, the worker must do the following:

1. Notify the foster/adoptive parents of the sibling that this child is available for placement;
2. Discuss with the foster/adoptive parents their interest in caring for this child;
3. Refer the family to the Home Finding Unit, or ICPC if the family resides out of state, as soon as possible if the foster/adoptive parents agree to care for the child entering foster care;
4. Document in the child's case record in CCWIS the results of all contacts made to place children with their siblings and the reasons why siblings are not placed together on the permanency plan screen.

In cases of imminent danger, it may not be possible to initially place a child with their siblings. Every effort must be made to reunite siblings who are in foster care unless such a placement would not be in the best interest of one of the children. In such a case, the child's worker must ask the court to approve the separate placement of the siblings and judicially determine, based on clear and convincing evidence that it is not in the child's best interest to be placed in the same foster or adoptive home as their siblings and for the court to therefore sanction the sibling separation.

If the child has siblings who have previously been placed in more than one foster/adoptive home, the worker will notify all the siblings' foster/adoptive parents of the availability of the child. If more than one family indicates an interest in foster/adopting this child, the Multi-Disciplinary Committee will choose the family that is best able to meet the child's needs.

#### **4.5 Child's Case Plan**

The Multidisciplinary Treatment Team is established to meet State and Federal requirements for children in the custody and care of the State. The following is information that the MDT must gather, discuss, and include in the Child's portion of the Child, Youth, and Family Case Plan:

1. The requirements of the family case plan where applicable;
2. A description of the type of home or facility where the child is to be placed;
3. A discussion of the safety and appropriateness of the placement;
4. A discussion of whether the placement is the least restrictive (most family-like) available
5. A discussion of whether the placement is in the closest proximity to the parent's home.
6. A discussion of whether the child is placed a substantial distance from the home of the parents or in a different state, why the placement is in the best interest of the child;
7. A description of how the child will receive safe and proper care in this placement;
8. A description of the services that are to be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home to facilitate the return of the child to their home or to secure a permanent placement for the child;
9. A discussion of the services which will be provided to the child while in foster care in order to address the specific needs of the child;

10. A discussion of the appropriateness of the services that have been provided to the child;
11. A listing of the child's siblings and their locations and the date of the court order sanctioning separation, if applicable;
12. A description of the parents' ability to contribute to the cost of placement;
13. The recommended visitation plan;
14. Documentation of the efforts to ensure that the child is returned home within the approximate timelines set out in the plan;
15. Documentation of the concurrent efforts to achieve permanency should the services designed to achieve reunification not be successful;
16. If return home is not the permanency plan for the child, then the case plan must state why reunification is not appropriate and specify in detail the alternative placement for the child including approximate timelines for when such placement is expected to become a permanent placement;
17. In the case of a child whose permanency plan is adoption or placement in another permanent home, documentation of the steps being taken to find a permanent living arrangement including child specific recruitment efforts;
18. A written description of the programs and services which will help children age fourteen (14) and older prepare for the transition from foster care to independence; and
19. Documentation of the child's health and education background and progress including all medical appointments, counseling, IEPs, school conferences, etc.

#### **4.6 Family Case Plan**

Another expectation of the MDT is to develop the Family portion of the Child, Youth and Family Case Plan. The following is a list of requirements for the Family's Case Plan:

1. A listing of specific, measurable, realistic goals to be achieved;
2. An arrangement of goals into an order of priority;
3. A listing of the problems that will be addressed by each goal;
4. A specific description of how the assigned caseworker or caseworkers and the parent, guardian, or custodian will achieve each goal, when applicable;



5. A description of the departmental and community resources to be used in implementing the proposed actions and services;
6. A list of the services, including time-limited reunification services as defined in section three, article one of this chapter, which will be provided;
7. Time targets for the achievement of goals or portions of goals;
8. An assignment of tasks to the parent, guardian, or custodian, to the caseworker or caseworkers and to other participants in the planning process, when applicable;
9. A designation of when and how often tasks will be performed; and
10. The safety of the placement of the child and plans for returning the child safely home.

#### **4.7 Documentation/Reporting Process**

Regardless of the way a child enters care, a Child, Youth, and Family Case Plan must be developed and documented in CCWIS within 60 days of the date the child entered care. In child abuse and neglect proceedings, the plan is also filed with the court within 30 days of the entry of an order granting an improvement period and/or five days prior to a dispositional hearing.

##### **A. Youth Services**

When a child enters foster care through Youth Services, all Youth Services case plans and assessments will be documented and filed with the court as appropriate. A copy of the case plan must be provided to all members of the MDT. Throughout the casework process and the court proceedings, the plan may change, and modifications should be made in appropriate records and distributed to all members of the MDT.

##### **B. Voluntary Placement**

When a child enters foster care through a voluntary placement, the Case Plan will be developed by completing the Child Assessment SS-FC-119A and Social Services form SS-FC-3.

In completing SS-FC-119A and SS-FC-3, the worker must address all required information for the child's portion of the Child, Youth, and Family Case Plan in order to fulfill federal requirements for case planning.

##### **C. Child Protective Services**

The Child, Youth, and Family Case Plan contains the information necessary to fulfill the state requirements in child abuse and neglect proceedings for a Child's Case Plan and a Family Case Plan

as well as the federal requirements for case planning. It also serves as the Case Plan which is to be used with the Multidisciplinary Treatment Team in assessing, planning, and implementing a comprehensive, individualized services plan.

For CPS cases, various screens have been developed in CCWIS to capture all the required information necessary for the plan such as the screens associated with Case Plans, Removal, Placement, Client Information and Court. These screens should be completed by the CPS worker in CCWIS as part of the Family Assessment and Treatment Planning and foster care policy requirements.

The Child, Youth, and Family Case Plan is a DDE report in CCWIS. When this report is accessed, it is printed into Word. In CPS cases, this plan will be populated by pulling information previously gathered and entered by the worker throughout the casework process.

Once the plan is in Word, the worker may tailor it to the specific case by adding information and narrative, or by deleting anything that is not applicable to the case. An electronic copy of the report must be placed in the CCWIS file cabinet. A paper copy must be printed to be filed with the court and provided to all members of the MDT.

Throughout the casework process and court proceedings, any changes or modifications made to the Plan should also be documented in CCWIS and distributed to all members of the MDT

#### **4.8 Multi-disciplinary Treatment Team Meetings for Disrupted Placements**

A child's placement may disrupt during the child's stay in foster care or a foster/adoptive placement due to many different factors such as the child's behavior problems, the facility not being able to meet the child's needs, the foster parent requesting the removal of the child, or the foster home being closed due to noncompliance issues. When a disruption occurs, the child is often moved around due to a lack of planning for an appropriate placement. The MDT must play a vital role when a child experiences a disruption from a placement. It is important for workers to understand that convening an MDT as soon as possible to determine the best possible placement for the child is in the child's best interest and will result in fewer disruptions in the future for the child.

##### **Worker Actions**

1. When a disruption occurs or is about to occur, the MDT must be convened within (7) seven business days of the disruption or the notification that the placement is going to disrupt.
2. The MDT must be provided with the most current assessments completed on the child and family, any information concerning the disruption, possible placement resources for the child, and any other information that could assist the MDT in planning for the child.

3. The MDT will determine the need for further assessments or reassessment for the child and family, any changes that need to be made to the Child, Youth, and Family Case Plan and an appropriate placement for the child.
4. The MDT will follow the format for ongoing MDTs in relation to confidentiality statement, review and revision of the Child, Youth and Family Case Plan, reporting to the court, documentation of the MDT's report and scheduling future meetings.

#### **4.8.1 On-Going Multi-Disciplinary Treatment Team Meetings**

Multidisciplinary Treatment Teams must continue to meet on a continuous basis until permanency has been achieved for the child. (Finalized adoption, guardianship, re-unification, emancipation). State Statute requires the court to hold regular judicial reviews at least once every 90 days to review the child's case plan with the MDT in attendance. This will require the MDT to also meet at least once every 90 days prior to the court hearing. The Department worker is responsible for chairing and convening all ongoing MDTs.

The membership of the team should include the following:

- the child or family's department case manager department,
- the child's parents or guardians,
- any co-petitioners,
- custodial relatives of the child,
- foster or pre-adoptive parents,
- any attorney representing an adult respondent or other member of the treatment team,
- the child's counsel or the guardian ad litem,
- the prosecuting attorney or their designee,
- a case manager from the managed care organization (MCO) or designee,
- a member of the child advocacy center when the child has been processed through the child advocacy center program or programs or it is otherwise appropriate that a member of the child advocacy center participate,
- any court appointed special advocate assigned to a case,
- or any other person entitled to notice or the right to be heard,
- an appropriate school official,
- and any other person or agency representative who may assist in providing recommendations for the particular needs of the child and pre-adoptive family.

The child may participate in the multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the Multidisciplinary Treatment Team. Unless otherwise ordered by the court, a party whose parental rights have to terminated and their attorney shall not be given notice of a multidisciplinary treatment team meeting and does not have the right to participate in any treatment team meeting.

The MDT must be held within the family's county of residence to assure the input from team membership and to assure the family's involvement. Special attention should be placed on engaging the family and the foster parents in the MDT process.

#### Worker Actions

1. MDT meetings must be held at least once every ninety (90) days to review and revise, if needed, the Child, Youth, and Family Case Plan until permanency has been achieved for the child. Following this review, a written report of the results is to be provided to the court. This will be the document used to review the case at the permanency placement review hearings and judicial review.
2. The members of the MDT must be properly notified in writing at least fifteen (15) days prior to the MDT meeting, by printing the Notification of MDT letters from CCWIS. Special attention must be given to the family's involvement in the MDT process. The family must be encouraged to participate in the MDT meetings.
3. All MDT participants must sign a confidentiality statement at each meeting. The Department worker will maintain an MDT signature sheet in the case record.  
\*Note: The Department worker must print the list of MDT Participants from Merge Forms to use as the confidentiality statement until the form has been revised. This form can be modified to add additional team members as they participate in the MDT process.
4. The child's foster parents or provider will provide a quarterly "Out-of-Home Observation Report" to the MDT which must include a report on the progress of the child, any changes in the child's case, an evaluation of the services provided to the child and their family, the status of the child's health and education, and any other relevant information for each month the child has been in placement with the provider. Foster parents must be encouraged to participate in MDT meetings.
5. Home finding staff should be invited to the treatment team meetings to assist the team with placement decisions.
6. Adoption staff must be made a member of the MDT when termination of parental rights (TPR) has occurred, and the child is available for adoption. Adoption staff should be invited to attend treatment team meetings when discussing adoption for a child prior to TPR to assist the team with the adoption process.
7. The MDT meeting should also be used to meet other necessary case review requirements such as the administrative review.
8. The Department worker will follow the actions required under "Conclusion of MDT Meeting."

9. The Department worker will enter the MDT information into the MDT CCWIS screen.

**The worker must always apply the Multidisciplinary Team Policy in conjunction with the Court Rules of Procedure for Child Abuse and Neglect Proceedings and all other applicable Foster Care, Child Protective Services and Youth Services Policies.**

#### 4.9 Permanency Planning

As part of the Child, Youth, and Family Case Plan, the Multidisciplinary Treatment Team is required to develop a permanent plan for the child that includes the specific actions required for the child to achieve their plan, timelines for these actions, services necessary, agencies/providers responsible for providing these services, etc.

There are several factors that can affect the success or failure of a permanency plan. These include the following:

- Extended stays in out of home care can have negative and lasting developmental effects on child development.
- Multiple placements decrease the likelihood of a child achieving their permanency plan.
- Children placed close to their own family and communities are more likely to have parent visitation and a return home.
- Parents who visit regularly are more likely to be reunited with their children.
- Children who remain in foster care longer than twelve to eighteen months are less likely to return home.

The federal government acknowledges only four primary permanency options for children in foster care:

- Reunification
- Adoption
- Legal Guardianship
- Placement with a fit and willing relative (kinship care)

#### 4.10 Concurrent Planning

Concurrent planning supports intensifying and expediting efforts to achieve permanency for a child within one (1) year - a time frame that reflects a child's sense of the passage of time. Concurrent planning safeguards opportunities for secure childhood attachments by safely building a stronger bond between the child and birth parent through reunification efforts, or by supporting the tie between the child and the caretaker through relative care, adoption, or legal guardianship when appropriate.

Effective use of concurrent planning allows the child to have an alternative permanency option that is being worked on at the same time as efforts are made to achieve the primary permanency plan for the child. All children whose permanency plan is reunification must have a concurrent

permanency plan. For other children, concurrent planning should be utilized in an effort to expedite the achievement of permanency for these children. Concurrent planning has several practices that are designed to make cases move quickly through the foster care system until permanency is achieved. Some of these primary objectives include the following:

1. Everyone involved in the child's life must attend the Multidisciplinary Treatment Team meetings where the child's case will be discussed in a forthright, honest manner.
2. The services identified for the child's parents as part of the Child, Youth, and Family Case Plan must be appropriate, intensive, and directly address the reasons the child was removed from the home.
3. Full disclosure of information to birth families early in the planning process regarding the importance of their regular involvement in planning for the return of the child, their rights and responsibilities, and the legal consequences of inaction by the child's parents or continued inappropriate behavior must be stated to the child's parents in a manner that they understand.
4. The child should be placed in the most family-like placement appropriate to meet the child's needs. If possible, the child should be placed in a foster/adoptive home that is willing to help facilitate reunification with the child's family while also willing to become a permanent placement for the child if reunification efforts do not work.
5. Frequent visitation with birth parents is vital if the child's safety can be assured.
6. Aggressive searching for absent or non-custodial parents and addressing all paternity issues such as blood tests, child support, etc., within the first three (3) months of placement.
7. Search, within the first three (3) months of placement, for appropriate relatives who might have an interest in caring for the child.
8. The use of an assessment of the birth family's strengths, needs, and current/past problems to assist the child's worker in determining the risk of lengthy foster care placement(s) and in identifying a foster home to best meet the child's needs. The worker should complete the SS-FC-12 within 30 days of a child coming into the Department's custody.
9. Conduct frequent and substantive case reviews that carefully assess the efficacy of services being provided to assist the family to achieve the case plan goals and modify the case plan as required.
10. The ability to mobilize a reluctant family by confronting birth parents' ambivalence and indecision - not allowing the crisis to paralyze case planning and decision-making.

11. A respect for the sense of time of young children because separations and relationship disruptions in the early months and years of life interfere with the younger child's initial capacity to learn how to trust and form secure attachments with adults.

#### 4.11 Title IV-E Eligibility/Reimbursement

Title IV-E of the Social Security Act is a federally funded program which provides fiscal support on behalf of individual children in foster/adoptive placements who are determined eligible to receive Title IV-E benefits, and who, among other factors, would have been eligible for AFDC benefits, as determined by the July 1996 standards for the program, had they remained in their own homes. A review of each child coming into foster care must be conducted by the Resource Development Unit to determine the child's eligibility for Title IV-E funds. When a child is determined to be eligible and reimbursable for Title IV-E funds, the Department is reimbursed a percentage of the expenses incurred in providing room, board, and supervision to the foster child. In addition, the Department is also reimbursed for a percentage of the administrative costs of the foster care program and training costs for staff.

Eligibility for Title IV-E is established at the time a child enters the care and custody of the Department. Within thirty (30) days of the child entering foster care, the child's worker will document in CCWIS the child and family specific information necessary to make a Title IV-E determination as outlined in the CCWIS Title IV-E Desk Guide.

Upon entering care, the child will automatically be assigned to the Resource Development Unit for a Title IV-E eligibility determination. The Resource Development Unit will contact the child's worker to request information necessary for determination:

1. The initial petition alleging child abuse and/or neglect resulting in a removal court order if the child is in care because of child abuse and neglect. In the case of an emergency removal in which the petition is filed after the removal, the ratification of the removal will be required.
2. The initial court order resulting in the physical removal of the child from the home if the child is in care due to child abuse/neglect or youth services.
3. The voluntary placement or relinquishment agreement if the child is placed into foster care by their parent.
4. A copy of the child's birth certificate and Social Security Card.

(Refer to the CCWIS Desk Guide for more information about the Title IV-E determination process.)

#### **4.12 Child Summary**

Child Summary-This form can be produced in CCWIS and will contain identifying information on birth parents, family history, child's race/ethnicity, Permanency Plan, reason child is in care, current adjustment, previous placement history, reason out-of-state placement is required, child's special needs, goals and anticipated length of placement, and post-placement plans. (3 copies) The information gathering should begin at the onset of the removal and continue throughout the life of the case. This form is an ongoing document, and every effort should be made to have the summary completed by the DHHR child welfare worker. However, this is not always possible due to delays in permanency and additional information arising once the adoption case is transferred to a child placing agency, making it necessary for child placing agency caseworkers to finalize the child summaries. The document should be updated by the ongoing child welfare workers on a frequent basis and throughout the duration of their involvement in the case. This document is to be provided to the adoptive family for their records up on placement or before the child's adoption is finalized. Under no circumstances should a foster, adoptive, or kinship/relative provider complete the child summary.

#### **4.13 Information Sharing Between Child Placing Agencies, Emergency Shelters, Group Care, and Residential Mental Health Treatment Facilities**

Child placing agencies (CPA), emergency shelters, group care and residential mental health treatment facilities (RMHTF) may share and disclose confidential case information on behalf of a child in foster care with one another for the purpose of providing supportive information when referrals for placement are made. In some instances, referrals may be made between a CPA, emergency shelter, and group care facility or an RMHTF. However, the child welfare worker remains responsible for placement approval prior to the child being moved to the accepting placement, as well as notifying the MDT members and the court. All shared information between agencies and facilities will be treated as confidential and fall under the confidentiality provisions found in W. Va. Code §49-5-101.

### **SECTION 5 – PERMANENT PLACEMENT OPTIONS**

#### **5.1 Reunification**

For all children under sixteen (16) who enter care through juvenile proceedings, children who are placed in foster care through voluntary placement agreements, and those children who have been in foster care due to child abuse or neglect proceedings for less than fifteen (15) months whose parents have not committed aggravated circumstances, reunification should be considered the primary permanency plan.

In order to facilitate reunification efforts, the Multi-disciplinary Treatment Team must identify and/or develop specific and individualized services to help the family address the issues that brought the child into foster care. Such services may include, but are not limited to:

1. Family support groups



2. Individual, group, or family counseling
3. Parenting education
4. Mental health services
5. Substance abuse treatment services
6. Assistance to address domestic violence
7. Structured visitation
8. Career training/job placement services
9. Homemaking/chore services
10. Family focused therapy

Facilitating frequent and structured visits between the child and their parents is the most critical element to successful reunification. The child's foster parents should be utilized as resources and mentors for the child's biological parents.

For reunification efforts to be productive, services and activities should be a collaborative effort between the biological parents, foster parents, the child's worker, and the other members of the Multi-disciplinary Treatment Team. The child's worker should fully disclose the rights, responsibilities, expectations, options, and consequences of the reunification plan to the child's biological family as well as the entire Multi-disciplinary Treatment Team.

## **5.2 Kinship/Relative to Adoptive Care**

Placement with a fit and willing relative, in and of itself, does not necessarily provide a child in foster care with permanency. Every child in the custody of the Department deserves to have a home that gives the child a sense of security and belonging while also providing the caretaker with the tools and resources necessary to meet that child's individual needs. Kinship care can provide a child with permanency as well as providing the relative with the financial, medical, and legal assistance necessary to raise the child to maturity through three (3) separate avenues.

### **5.2.1 Grandparents' Rights**

According to the W.Va. Code, §49-4-114 (3) for purposes of any placement of a child for adoption by the department, the department shall first consider the suitability and willingness of any known grandparent or grandparents to adopt the child. Once any such grandparents who are interested in adopting the child have been identified, the department shall conduct a home study evaluation, including home visits and individual interviews by a licensed social worker. If the de-

partment determines, based on the home study evaluation, that the grandparents would be suitable foster/adoptive parents, it shall assure that the grandparents are offered the placement of the child prior to the consideration of any other prospective foster/adoptive parents. A circuit judge may determine the placement of a child for adoption by a grandparent or grandparents is in the best interest of the child without the grandparent or grandparents completing or passing a home study.

### **5.2.2 Relative Adoption**

The relative foster parent may elect to adopt the child placed in their home. This option allows the relative caretaker to become the legal parent of the child and receive all the benefits of legal custody. The relative may also receive a monthly maintenance adoption subsidy to assist with the additional expense of caring for the child. A medical card that covers the child's physical and mental health care needs is also available to the relative caretaker who adopts the child. In addition, a non-recurring subsidy is available that covers up to two-thousand dollars (\$2,000.00) of the non-recurring expenses that may include the legal expenses incurred by the relative in adopting the child.

### **5.2.3 Transfer of Custody**

If a relative is unwilling to become a foster/adoptive parent or does not meet the requirements to become a foster/adoptive parent or legal guardian, the Department may elect to ask the court, at a dispositional hearing, to transfer legal custody of the child to the relative. This option does not provide the relative caretaker with any financial or medical support for the child. The relative may elect to receive TANF benefits for the child which also provides a medical card to cover the physical and mental health for the child. This transfer option may only be utilized under the following conditions:

1. Reunification, adoption, and legal guardianship have been ruled out as possible permanency options for the child.
2. The child's worker has explained all the benefits of adoption and legal guardianship to the relative foster parent who decides not to pursue these options; or
3. The relative caretaker cannot meet the requirements necessary to become foster/adoptive parent or legal guardian.
4. The Multidisciplinary Treatment Team and the Court determine that this placement is in the best interest of the child and the relative can provide an appropriate and safe permanent home for the child.
5. The child's worker will request that the court transfer custody of the child to the relative caretaker at the dispositional hearing.

## **5.3 Adoption**

Adoption is a way of providing security for, and meeting the developmental needs of, a child by legally transferring ongoing parental responsibility for the child from the birth parents to adoptive parents. W.Va. Code §49-2-101 gives the Department the responsibility to provide child welfare services and to accept guardianship of children and consent to their adoption. For the Department to have the right to place a child for adoption and later give formal consent to their

adoption, the Department must obtain legal guardianship of the child. This may occur through the termination of parental rights to the child either through a voluntary relinquishment or through a court order. The parental rights shall not be terminated if a child 14 years of age or older or otherwise of an age of discretion as determined by the court objects to such termination. The decision to pursue adoption as a permanency option should be made by the Multidisciplinary Treatment Team which should include the child's worker, the supervisor, the private agency staff if any, the child, the child's foster parents, the regional adoption specialist and/or supervisor, and the Guardian Ad Litem.

Within the Child, Youth Family Case Plan, filed with the court prior to disposition, the child's worker must recommend adoption as the permanency plan for the child and detail the steps necessary to achieve permanency.

The Multidisciplinary Treatment Team should also act as the permanent placement review committee to monitor the implementation of the permanency plan for the child and report on the progress and developments in the case every three months until the child's adoption is finalized.

If an order of sibling separation has not been previously entered and the Child, Youth, Family Case Plan includes placement of a child in a placement separate from their siblings, the worker must secure a court order which finds that it is in the best interest of the child not to be placed in the same home as their sibling. The order must be documented on the Hearings Outcome, details screens, and document tracking in CCWIS.

If not already completed, the child's worker must complete the Birth Parents' Background Information form (SS-FC-12) (see section 3.4, # 19 and 3.10 # 8) and the Birth and Medical History of the child form (SS-FC-12A) in CCWIS. The worker must also obtain a certified copy of the birth parent's birth certificates and death certificates, if applicable.

#### **5.4 Legal Guardianship**

The decision to pursue subsidized legal guardianship as a permanency option is to be made by the Multidisciplinary Treatment Team (MDT). The decision to pursue legal guardianship must be in the child's best interest and must be so documented. In the Unified Child or Family Case Plan (Case Plan), filed with the Court prior to disposition, the child's worker must recommend legal guardianship as the permanency plan for the child and detail the steps necessary to achieve permanency.

#### **5.5 Other Permanency Options**

In addition to the four federally sanctioned permanency options, the court may sanction another permanency option to meet an individual child's needs. After considering and ruling out reunification, adoption, legal guardianship and kinship care as viable permanency options for the child, the child's worker, with the assistance of the Multi-disciplinary Treatment Team, may conclude that the most appropriate permanency plan for the child is placement in another planned permanent living arrangement.

### 5.5.1 Emancipation

For children who are over sixteen (16) years old, emancipation ([W.Va. Code §49-4-115](#)) may become the permanency plan for those youth who are not able to return home or live with relatives and cannot or do not wish to be adopted or placed with a legal guardian.

### 5.5.2 Other Planned Permanent Living Arrangement (OPPLA)

For a child age sixteen (16) or older for which reunification, adoption, legal guardianship, and kinship care have been ruled out, continued foster care may be an appropriate plan. This permanency option is only appropriate when a parent and child have a significant bond, but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising them to the age of majority and to facilitate visitation with the disabled parent.

All children in foster care must continue to participate in judicial reviews every twelve (12) months.

### 5.5.3 Modification of Dispositional Order

[W.Va. Code 49-4-606](#) allows for the modification of Dispositional Orders. This may be done by motion of the child, child's parent or guardian or the Department alleging a change of circumstances that requires a different disposition. This is an option for those youth who are at risk of aging out of the system without achieving permanency and whose parents the court finds by clear and convincing evidence, have made a material change in circumstances. This option must be in the child's best interest.

## SECTION 6 – TRANSFER OF CHILD PROTECTIVE/YOUTH SERVICES CASE TO ADOPTION

### 6.1 Termination of Parental Rights

Permanent guardianship of a child applies when both parent's rights to a child have been terminated by the court or through a voluntary relinquishment. If the child's permanency plan is adoption, any pre-adoptive placement would be a legal risk placement until the terminated parents appeal period has expired.

If the termination of parental rights is via a court order, the court order shall specify all the parental rights to the child including the right to consent to adoption, marriage, visitation, etc. are to be transferred to the Department. The court order will determine whether there is an obligation for the parents to continue payment of child support after termination. If the court order states child support is to continue, payments are to be made to the Department until an adoption is consummated. The Department will also attempt to collect any arrearage of child support accrued prior to termination.

When the court terminates parental rights and commits the child to the guardianship of the Department, the child's worker will do the following:

1. Initiate the permanency placement review process to review the child's case every 3 months.
2. If the child's permanency goal is adoption, the child must be referred to the Adoption Resource Network within thirty (30) days; and
3. Develop a post-termination placement plan which is to be submitted to the court and to the Multidisciplinary Treatment Team.

In accordance with state code, the district office will annually report to the court the status of all children for whom the Department has been granted permanent guardianship who have not been adopted. The report, in letter form, is to be directed to the circuit court through the prosecuting attorney's office. The child's name, birth date, legal status, and placement status are to be reported. Any changes from the reporting for the previous year are also to be noted in the letter to the court.

## **6.2 Right to Appeal Termination**

A court order terminating parental rights is effective from the date of that order. During the following two (2) months, any of the involved parties may file a motion to appeal or to correct errors regarding the order. This appeal period may be extended by the Court if necessary. Any placement made during this period is considered a legal risk placement.

## **6.3 Post-Termination Counseling**

State statute requires the Department to provide, upon request, pre-placement and post-placement counseling services. These services must be made available to any person whose consent or relinquishment to an adoption is required by statute. This means that these services must be made available to clients of the Department who execute a voluntary relinquishment and to clients of private agencies who execute consent.

If counseling services are requested, the appropriate Regional Home Finding Supervisor will determine whether they will be provided by the Department staff or referred to another provider through the ASO process. Continuing services to birth parents after their rights have been terminated should include:

1. Helping them deal with the finality of the termination of their parental rights and to begin making immediate plans for their own lives;
2. Encouraging them to provide the agency with updated medical information of significance to the child; and
3. Providing them with all information they can legally be given.

## 6.4 Adoption Specialist as Secondary Worker

### 6.4.1 Staffing

When the termination of parental rights of all parents, including unknown parents, or death has occurred a case will be staff with the adoption unit. This staffing will determine the appropriateness of utilizing the adoption specialist as a secondary worker as well as the need to transfer the case to the Adoption Unit. It will outline the responsibilities of both the primary and the secondary workers following job description guidelines. This meeting will address missing information and decide which party is responsible to obtain such information. A timeframe will be determined for the case transfer to occur. The staffing as well as any exceptions must be clearly documented in CCWIS and agreed upon by both supervisors.

### 6.4.2 Transfer Plan

There may be some circumstances in which a case may not be appropriate for immediate transfer following the case staffing. Such circumstances can include but are not limited to completing missing documentation, statutory follow-up by the CPS or YS worker, or obtaining necessary documents. If this occurs, up to an additional 30 days can be allotted for transfer with the development of a transfer plan by the CPS/YS supervisor, the CPS/YS worker, and the adoption supervisor. The transfer plan should address reasons for the delay as well as project timing for the transfer to occur in the future and should be documented. Cases are to be staffed with the adoption unit within 30 days of termination of parental rights, it should be documented in the CCWIS system and staffed and transferred as soon as possible.

(See also ARN, Section 7.2.) It is not necessary for children to be accepted by the Adoption Unit for them to be placed on the ARN. Children in state guardianship who have a plan of adoption are required to be registered on the Adoption Resource Network within 30 days of identification as being in need of a foster/adoptive family.)

### 6.4.3 Mediation

If the Regional Adoption Supervisor and the CPS Supervisor cannot reach an agreement in the staffing, the Regional Program Manager, and the District CSM should both be enlisted to mediate and assist in making a decision.

## 6.5 CPS/Youth Services Actions Prior to Transfer

### 6.5.1 Adoption Ready Cases

A child must be adoption ready prior to a case being transferred to the adoption unit. Adoption ready means that a child who is placed in a family setting with the permanency plan of adoption and is legally free for adoption through death, or termination of all parental rights, including known and unknown parents. All required paperwork and documentation must be obtained as required by the "Adoption Transfer Referral and Checklist Form". This form must be completed and all required documentation must be uploaded in CCWIS, as well as the completion of the state ward paper file, at the time of transfer to the adoption unit supervisor.

Adoption ready cases must be staffed with the adoption unit within 30 days of termination or relinquishment of parental rights for all known and unknown parents. In cases where there is an unknown parent where publication has been posted, termination of the parental rights of the unknown parent must occur before the case can be transferred to the adoption unit. In circumstances where a case cannot be immediately transferred at the time of staffing, up to an additional 30 days can be granted with a transfer plan in place. See section 6.4.3 *Transfer Plan* for more details.

All motions to intervene must be resolved prior to the transfer. However, cases where appeals on termination of parental rights have been filed and a Supreme Court ruling is pending, the cases can and should be transferred to the adoption unit if all other requirements to transfer have been completed.

The following must be completed and up to date in CCWIS prior to transferring the case to the adoption unit:

- All contacts
- Court screens
- Education screens
- Placement screens
- MDT screens
- All required documentation uploaded
  - Termination orders or relinquishments
  - The completed 12 and 12A forms
  - Child summary
  - Birth certificates
  - Birth records

Children whose permanency plan is adoption, who are legally free for adoption through death or termination of parental rights of all known and unknown parents, but are placed in a non-family setting (e.g. residential facility), shall remain with the CPS/YS worker, with the Adoption Specialist as the secondary worker on the case. The Adoption Specialist will be invited to all MDTs and assist with updating necessary documentation.

Adoption should be recorded by the CPS/YS worker as the permanency goal in the child's written permanency plan and in CCWIS

### **6.5.2 Court and Other Legal Records**

The CPS/YS worker will obtain certified court orders sanctioning termination of parental rights (known, unknown, and deceased parents/guardians), certified documentation of relinquishment, sibling separation orders, and certified death certificate for any deceased parents.

### **6.5.3 State Ward Record**

The CPS/YS worker will setup the State Ward record in CCWIS and as a paper file. This will include contacts copied from the family record, updated court screens, and MDT records. The worker

should also document the date of the last Administrative Review and import all applicable files into the CCWIS file cabinet.

#### **6.5.4 Child's Documents**

The CPS/YS worker will obtain/complete the following for the record:

1. Original birth certificate or documentation of request.
2. Social Security Card.
3. FC 12 and 12A completed.
4. Documented efforts to locate relatives.
5. Status of any home studies requested.
6. Medical records: EPSDT, psychological records, birth records, assessments, immunization records.
7. School records, IEP's, etc.
8. Complete child summary.
9. AFCARS screen with no missing critical elements.
10. IV-E determination completed in CCWIS and paper file.
11. A certified petition and certified court ordered Termination of Parental Rights for all known and unknown persons having the right of parenting each child, and
12. Documentation of any referrals or applications made on behalf of child for any services or benefits.

#### **6.6 Case Work Actions**

The CPS/YS Supervisor will review all documentation before the transfer and arrange case staffing with the adoption supervisor. The adoption supervisor will review and staff cases with CPS/YS Supervisor and worker and will assign each case to a Regional Adoption Specialist. Prior to the actual transfer of a case to the Adoption Unit, the Adoption Specialist will attend Multi-Disciplinary Treatment Team meetings when permanency options are being considered. After the transfer, the Adoption Specialist will have a face-to-face contact with the child within 14 days of the transfer in order to begin the child's assessment.

#### **6.7 Electronic Access for Child Placing Agencies for the Purpose of Adoption**

The W. Va. Code [§49-5-101](#) requires that the Department make electronically available to child placing agencies, documents that are necessary for the completion of adoptions. The following list of documents shall be made available to the child placing agencies through CCWIS:

- Adoptive Parent Placement Agreement (FC-48)
- Adoption assistance agreement
- Release and consent for adoption
- Child Summary
- All applicable and relevant court orders/documents that include but may not be limited to:
  - Parent termination, including unknown father
  - Sibling separation



- Termination of an existing guardianship
- Notification to grandparents
- Petition of single parent adoption
- Appeal documents
- Removal order
- Other relevant petitions and court orders
- Birth parent background information (FC-12)
- Birth and medical history of the child (FC-12a)
- Psychological assessments for family members
- Medical records for all family members
- Psychiatric records for the child
- Discharge summary/information
- Department family assessment (initial and ongoing assessments)
- Safety plans
- Child and Family Unified Case Plan

## **SECTION 7 – RECRUITMENT OF AN ADOPTIVE HOME**

Child specific recruitment must be done for every child who has at least one parent’s rights terminated, and adoption is the child’s permanency plan.

### **7.1 Grandparents Rights**

Grandparents or relatives by blood or marriage will be given the opportunity to become a foster/adoptive resource unless they have been party to the abuse and neglect by action or inaction. Once grandparents who are interested in adopting the child have been identified, the department will conduct a complete home study of the Grandparents and their home. Grandparents must meet all requirements to be a WVDHHR certified foster/adopt family in order to be considered for placement. (Grandparents residing out-of-state must be certified by a licensed social worker in that state.) If the department determines based on the home study evaluation, that the grandparents would be suitable adoptive parents, it must offer the placement of the child to the grandparents prior to considering any other prospective foster/adopt parents. See also Foster Care Policy Section 3.2 ([W.Va. Code 49-4-114](#))

### **7.2 Adoption Resource Network**

The Bureau for Social Services, Children and Adult Services, 350 Capitol Street, Room 691, Charleston, WV 25301, operates the state adoption exchange, known as the Adoption Resource Network (ARN). This program provides a way to exchange information statewide and with other states about the West Virginia children with special needs waiting to be adopted. It also provides information about certified foster/adoptive families who are approved to adopt children with special needs. Children available for adoption are listed on the internet national adoption site, [www.adoptuskids.org](http://www.adoptuskids.org). The Bureau hosts an internet photo listing site of available West Virginia children on the Department of Health and Human Resources’ web page, <http://www.wvdhhr.org/oss/adoption/arn/kidmenu.cfm>. The photo listing is offered monthly on digital disk to specialized providers.

### **7.2.1 Identification of Children for the Exchange**

Most children in state guardianship who have a plan of adoption are required to be registered on the Adoption Resource Network (ARN) within 30 days of identification as needing a foster/adoptive family. Children do not have to be registered with the ARN if there is a completed Adoption Placement Agreement. Children will not be registered if no parental rights have been terminated, their permanency plan does not include adoption as the goal, or they are 12 years old or older and do not wish to be adopted or registered on the ARN.

Any children who have been previously registered on the ARN and withdrawn but are again legally free, appropriate for adoption, and do not have a completed Adoption Placement Agreement must be registered within ten (10) days of the changed status.

It is not necessary for children to be accepted by the Adoption Unit for them to be placed on the ARN.

Children 12 years of age or older must be consulted and must expressly approve the use of information, photographs, etc., on the ARN. This consent or refusal must be documented as a contact in CCWIS.

### **7.2.2 Registration**

The ARN referral form, WV Adoption Resource Network (Child Data Form ARN-0602) should be completed online. All information on the referral form must be completed and a narrative of at least 110 words written for each child or sibling group (Refer to the ARN Instruction for detailed information about completing this form and writing narratives)

The child's worker will save the completed form to each child's file cabinet in CCWIS. The worker will then notify the ARN via e-mail of the completed referral, including the child's name and CCWIS case number.

The ARN is responsible for transferring all information to the internet sites.

### **7.2.3 Submission of Photographs to the ARN**

A good quality, digital or sharp, original, close-up picture must be taken as soon as the case is referred to the ARN. This photo may be mailed to the ARN (with identifying information written on the back) or downloaded digitally to the SSARN folder after being renamed with the worker's region number, county number, child's last name, and sequence number. ARN should be notified of any downloads.

Updates to the ARN will be available to DHHR staff on the second and fourth Fridays of each month.

#### **7.2.4 Updating Photographs**

Updates to the ARN with new photographs must be completed every six months in conjunction with the child's administrative review.

#### **7.2.5 Change of Information**

The ARN should be notified of any changes, including changes of workers, within 15 working days of the change.

#### **7.2.6 Placing Holds**

The ARN must be notified via E-mail for a child to be placed on hold status on the internet in either of the following instances:

- \* If a Placement Review Committee meeting has been scheduled, the ARN should be notified five (5) business days before the meeting.
- \* If the volume of responses is high and worker chooses to limit additional inquiries.
- \* If inquiries are no longer to be accepted.
- \* An Adoption Placement Agreement has been signed.
- \* If a child is having pre-placement visits or placed for trial adoption.

When an adoption is finalized, or adoption is no longer the permanency plan, the ARN must be notified so the child may be withdrawn from the listing.

#### **7.2.7 Internet Inquiries**

When adoptive parents inquire about a specific child through the various internet sites or through the ARN Family Registration database, the ARN will notify the child's worker. The child's worker should respond to the inquiring family's worker within a reasonable time, but no later than fifteen (15) days from the date the inquiry was forwarded to the worker. Families with approved home studies who are identified as appropriate for the child will be presented to the Placement Review Committee for consideration and a placement recommendation.

Home studies submitted from agencies other than WV DHHR must have been written by a licensed social worker, must be current (within 1 year) and must meet all requirements to be a Certified Adoptive Home in the state of West Virginia.

#### **7.2.8 Laptop Computer and Camera**

Each adoption worker and home finder is assigned a laptop computer and a digital camera for work-related use in adoption. The main function of the laptop is to enable the worker to share current ARN information with potential adoptive parents in the field. It may also be used by the worker to update CCWIS or complete a child study, home study or review while in the field. It is configured for dial-up access to the worker's DHHR mainframe with access to the WV ARN photo listings, CCWIS, Power Point, and email. (For problems/questions, refer to local equipment coordinator, MIS Policy, Laptop Usage Manual, MIS Help Desk, or ARN.)

A digital camera is provided to workers for them to easily update pictures for the ARN or to help in recruiting by such activities as sending pictures to prospective adoptive parents.

### 7.3 Regional Home Finding Specialists

Federal regulations require states to provide for the diligent recruitment of potential foster/adoptive families to care for the children in the custody of the Department. Recruitment efforts to find foster/adoptive families and to promote community awareness of the adoption and foster care programs is the primary responsibility of the Regional Home Finding staff. The Home Finder is also responsible for conducting home assessments of potential providers, annual recertification of existing providers, and assisting with locating appropriate, approved foster homes for children in the Department's custody.

When seeking a home for specific children, the Regional Home Finder should be the first resource used.

#### 7.3.1 Home Study

The foster/adoptive home study assessment is an enabling and educational process in which the prospective foster/adoptive family's strengths are evaluated to determine their capacity for parenting and to acquaint them with the regulations of the foster care and adoptive programs. This assessment consists of the following:

1. An application to become a foster and/or adoptive parent.
2. The home assessment which determines the suitability of the family's home, financial resources, health, and ability to parent.
3. Interviews with all members of the foster/adoptive parent's household to ascertain the ability, willingness, and motivation of the family to care for a foster and/or adopted child. At least three meetings will be face-to-face interviews and at least one interview will be held in the family home.
4. Reference checks with at least five (5) individuals who know the family well enough to address their ability to parent, how they react to conflict, experience in parenting, strengths and weaknesses, etc. Two of these will be in-person interviews.
5. Criminal records and child/adult protective services checks to assure that the individuals who wish to become foster/adoptive parents do not have a criminal or abusive background.

#### 7.3.2 Contracted Home Studies

In some circumstances, the Home Finding Supervisor may elect to utilize a contracted worker to perform the family assessment portion of the home study. The Home Finding Supervisor will be responsible for choosing that contractor, reviewing the family assessment upon completion to assure that it meets all the standards and requirements, and having the home study entered into the CCWIS system. The Home Finding Supervisor will also enter an ASO referral and provide documentation of completion to the contractor for submission for payment. (See Foster Care Policy for complete instructions.)

#### 7.3.3 Eligibility Criteria

In order to be considered to become a foster/adoptive parent, the applicant must meet the following eligibility criteria:

1. The applicant must be at least 18 years of age or older at the time of application and generally be of an age to have naturally parented the age of the child the applicant wishes to have placed in their home unless the applicant is a relative of a specific child the applicant wishes to parent. Approval for a relative under the age of 21 must be given by the Foster Care Program Specialist in the Bureau for Social Services.
2. Applicants must be nurturing, responsible, patient, stable, flexible, mature, adults, including those with reasonable accommodations, capable of meeting the individual needs of children referred for placement services.
3. A couple who wishes to be foster/adoptive parents must demonstrate their relationship will provide an environment of stability for children.
4. The decision to become a foster/adoptive parent shall be agreed to by all members of the household, including children over the age of 12.
5. The prospective foster/adoptive parent must be willing and able to accept the level of involvement and supervision provided by the Department and/or specialized foster care agency for children placed in their home.
6. The prospective foster/adoptive parent must be a United States citizen and a resident of West Virginia.
7. The prospective foster/adoptive parent may not function as a day care provider, adult family care provider, specialized foster parent, or any other social service provider without prior approval of the Foster Care Program Specialist in the Bureau for Social Services.
8. Foster/adoptive parents shall accept children for foster/adoptive care only from the Department of Health and Human Resources unless, under specific circumstances, they are dual providers sanctioned by the Foster Care Program Specialist in the Bureau for Social Services.
9. The number of children placed in a home shall be determined by the stamina, capacities, skill of the parents, physical accommodations of the home and the effect of a child's placement on the equilibrium of the family as a unit. As required by Foster Care policy, no more than six children, including foster children and the foster/adoptive parent's own children under the age of 18 living at home shall reside in the foster home at any given time. The only exception may be for the placement of a sibling group with the prior approval of the Home Finding Supervisor who will then notify the Foster Care Program Specialist in the Bureau for Social Services by the next working day.
10. No more than two children under the age of two are to be placed in a foster/adoptive home at the same time.
11. No more than two children who are medically fragile or non-ambulatory shall reside in a foster home at the same time.

#### 7.3.4 Training

The purpose of Pre-Service Training is to give interested persons an opportunity to learn more about the foster/adopt program of the Department and to decide if they wish to continue with the application process. Pre-service sessions are held as a group process which provides prospective parents the chance to learn from each other. Families who attend training are not obligating

themselves to accept a child nor is the Department obligating itself to certify a prospective applicant for foster care or adoption. Each prospective parent must attend all the required training units.

Training in each region is scheduled and conducted by the Social Work Education Consortium (SWEC) staff from various universities in West Virginia using the PRIDE model for the development and support of resource families. PRIDE (Parent Resources for Information, Development, and Education) was developed through a project initiated by the Illinois Department of Children and Family Services and the Child Welfare League of America. The 30-hour course (10 three-hour sessions) includes five essential competencies: protecting and nurturing children, meeting children's developmental needs and addressing developmental delays, supporting relationships between children and their families, connecting children to safe, nurturing relationships intended to last a lifetime, and working as a member of a professional team. After approval, providers are expected to complete an additional 27 hours (nine, three-hour sessions) of PRIDE in-service training in the second year. In future years, providers are required to have 12 hours of in-service training annually to maintain certification.

#### **7.3.5 Foster to Adopt**

The child's adoption worker will discuss placement options with the foster/adopt parent within 30 days of the child becoming legally free for adoption and transferred to the Adoption Unit for placement. Unless the plan is for a relative placement, the foster parent has the right to be considered along with other appropriate homes for adoptive placement. If the foster parent has no interest in adoption or any other permanency option, the worker will obtain a written statement to that effect.

### **7.4 Media Promotions**

#### **7.4.1 Adopt US Kids**

In partnership with the Children's Bureau, the Administration for Child and Families, and the Advertising Council, Adopt US Kids launched a national ad campaign to encourage adults to adopt children who are in foster care. This multi-media advertising campaign which launched in the spring of 2004 is a five-year project. The television, radio, print and Internet public service announcements for this campaign were created and distributed by the Ad Council. Responses to these ads are being taken nationally by Adopt US Kids and relayed to Mission W. V. for distribution to appropriate DHHR offices for follow-up.

#### **7.4.2 Child Specific Publicity**

Mission West Virginia, Inc. organizes the "Sunday's Child Column" which features children who are legally eligible for adoption and are featured on the WV Adoption Resource Network (ARN). They have established relationships with several newspapers throughout the state to feature these columns on a regular basis and some on space availability.

Mission WV also organizes, the Heart Gallery of WV, a traveling photo exhibit of children who are awaiting adoption. In coordinating the Heart Gallery, we find volunteer photographers statewide

to take pictures of the children. When a child is adopted that was featured on the Heart Gallery, that picture is removed and offered to the newly adoptive family. MWV also distributes a paper and e-newsletter targeting certified foster and adoptive families that features children who are listed on the ARN.

### **7.4.3 Wendy's Wonderful Kids**

Mission WV is part of the national network formed by the Dave Thomas Foundation for Adoption to employ the Wendy's Wonderful Kids (WWK) program. The WWK program implements proactive, child-focused recruitment programs targeted exclusively on moving the longest-waiting children from foster care into adoptive families. MWV has on staff two recruiters who employ aggressive practices and proven tactics focused on finding the best home for a child through the starting points of familiar circles of family, friends, and neighbors, and then reaching out to the communities in which they live.

### **7.5 Resources Known to the Child**

An excellent source of potential adoptive providers can be found with those people who have had or currently have contact with the child. Relatives, neighbors, teachers, counselors, church members, previous foster parents, etc., who the child already knows, can often become the best providers for the child. It is important for the worker to consider these resources as well as those who may seem more apparent.

### **7.6 Legal Risk Placement**

In some instances, it may be in the best interest of the child to place the child in a pre-adoptive situation pending the appeal of the termination of parental rights. Such placement is termed a legal risk placement or risk placement. The child may be placed with an approved foster/adopt family with the understanding that, if and when the parents' rights are terminated, this family will become the adoptive family.

Legal risk placement may be considered under the following circumstances:

- The birth mother has voluntarily relinquished her parental rights, but the birth father is unknown or unavailable, publication is needed, or court action is needed to terminate his parental rights.
- An infant or young child has been abandoned and a petition for guardianship has been filed (the degree of risk in this situation may prove to be very high).
- Guardianship has been granted to the Department without the consent of the birth parents and one or both parents are expected to appeal the termination of their parental rights.

The foster/adoptive family should be advised as to the risk involved and should be kept informed of any progress of the case through the legal system. If guardianship is not received and reunification with birth parents or extended family becomes the plan, foster care reunification procedures will apply.

If the risk placement has been for six months or more when all parental rights are terminated, and appeal periods have expired, the family may proceed immediately to petition for the adoption.

## **SECTION 8 Adoption Preference and Preparation**

### **8.1 Grandparent Preference**

[W.Va. Code §49-4-114](#) provides for grandparent preference in determining adoptive placement for a child where parental rights have been terminated and also incorporates a best interests analysis within that determination by including the requirement that the DHHR find that the grandparents would be suitable adoptive parents prior to granting custody to the grandparents. The statute contemplates that placement with grandparents is presumptively in the best interests of the child, and the preference for grandparent placement may be overcome only where the record reviewed in its entirety establishes that such placement is not in the best interests of the child.

However, the WV Supreme Court of Appeals has clarified that such a preference is not an absolute directive to place children with their grandparents in all circumstances.

The Court held the opinion that an integral part of the implementation of the grandparent preference, as with all decisions concerning minor children, is the best interests of the child. The WV Supreme Court has opined many times that the welfare of the infant is the polar star by which the discretion of the court is to be guided in making its award of legal custody. The WV Supreme Court has further stated that adoption by a child's grandparents is permitted only if such adoptive placement serves the child's best interests. If, upon a thorough review of the entire record, the circuit court believes that a grandparental adoption is not in the subject child's best interests, it is not obligated to prefer the grandparents over another, alternative placement that does serve the child's best interests. See Syl. pts. 4 & 5, *Napoleon S. v. Walker*, 217 W.Va. 254, 617 S.E.2d 801.

### **8.2 Pre-Placement Visitation**

Whenever possible pre-placement visitation should occur prior to placing a child in an adoptive home. Pre-placement visitation provides a positive environment for parents and the child to get to know one another and requires preparation and planning. Ideally, all parties, including the child's foster parents, the adoptive parents, and the Adoption worker are involved in this planning.

1. The first meeting should be held in a place where the child feels most comfortable. It is never an overnight visit. For subsequent visits, the worker should encourage the adoptive family to visit in the foster home at different times of the day in order to observe the child in different activities and to learn their routines. The visits should increase in length to overnight.



2. Pre-placement visits are not for the purpose of seeing whether the placement is going to work. Rather, they are to provide an opportunity for increasing familiarity and to begin the attachment process.
3. Visits should generally take place in a two to three-week period. A longer visitation period may confuse the child by implying that the family has not really decided to adopt them. Proximity between the child's residence and the new family's home will, in part, determine the number and duration of visits. Other considerations are the child's needs and the extent to which the foster family and the adoptive family are willing to cooperate in a placement plan.
4. A MINIMUM visiting plan is as follows:
  - For long-distance placements, a minimum of one visit in the foster home.
  - One weekend visit to give the child an opportunity to spend several days in the new home.
  - One return visit to the foster home to say final good-byes is recommended.
  - In the case of interstate placement, the family is expected to come to West Virginia for the presentation of the child and part of the pre-placement and placement process.

### **8.3 Travel Expenses for Interviews and Visits by Pre-Adoptive Parents**

If necessary, potential adoptive parents may be invited to attend a selection committee meeting or MDT to be interviewed for the placement of a particular child or children. Any invitation to attend a selection committee meeting should clearly inform a prospective parent that any travel will be done at their own expense and not at the expense of the Department. If the family chooses to attend, they may do so at their own expense. This rule will apply to potential parents who are either in-state or out-of-state. If needed, after selection of an approved pre-adoptive parent, the Department will assist with travel expenses for required pre-placement visits by the chosen parents.

As an alternative to in-person interviews with potential adoptive parents, other forms of communication such as conference telephone interviews, teleconferences, video presentations or telephone calls may be as effective and should be utilized.

### **8.4 Moving to a Trial Adoption Placement**

The placement day is one of the most significant events in a child's life. Because of its importance, all parties to the placement must be clear as to the actual date the placement will occur and pre-placement visiting should not run into the placement without signaling a specific day or "moving-in day". Steps to help in the transition might include the following:

1. The foster parents should be assisted in saying their good-byes in a clear helpful manner.
2. The child should bring their clothing, favorite toys and other possessions which have meaning. The child's Lifebook must be hand carried by the adoptive worker to assure it does not get "lost" in the move.

3. When placing an older child, there should be a provision for ongoing contact with significant individuals in the previous placement (i.e. foster parents, child's worker, extended birth family). For some children, maintenance of such contact may continue throughout their lives.

## **8.5 Adoption Placement Agreement**

On the day of placement, the Adoption Worker will review the Adoption Placement Agreement with the family and clarify the mutual rights and responsibilities regarding the placement.

A Adoption Placement Agreement will be completed and signed in triplicate by the worker and the adoptive parents upon placement of the child in the adoptive home. One original is to be placed in the state ward record; one is to be included in the adoption assistance packet; and the third is to be given to the adoptive parents.

At the time of placement, the adoptive parents will be provided with an up-to-date child summary, a copy of school records, current medical information, and a non-identifying medical/social history of the birth family.

## **8.6 Discipline Policy Agreement**

On the day of the placement, the Adoption worker will complete the Discipline Policy Agreement with the family. The Discipline Policy Agreement will be completed and signed in triplicate by the worker and the adoptive parents upon placement of the child in the adoptive home. One original is to be placed in the state ward record, one is to be included in the adoption assistance packet and the third is to be given to the adoptive parents.

# **SECTION 9 – INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)**

## **9.1 Out of State Placements**

Interstate Compact for the Placement of Children (ICPC) is a legal agreement between West Virginia and other states as outlined in [W.Va. Code §49-7-101](#) to regulate placement activities that occur between states. If a proposed placement is located outside the state of West Virginia, a referral through the ICPC is required. Complete ICPC referral packets must be forwarded, in triplicate, to the WV ICPC office for all types of proposed out of state placements including parental placements, relative/kinship placements, foster care, specialized foster care, group care residential care and adoptive placements.

All out of state placements of children in the custody of the Department must be approved by the ICPC office of the receiving state prior to placement. Only the Compact Administrator in the receiving state is authorized to give approval for placement in their state. Any other approval source (i.e. court, probation officer, out of state facility) is not sufficient to meet the requirements specified in the state code.

Children should be placed out of state ONLY if one of the following conditions occurs:

1. The child is placed with a parent or relative who lives out of state.
2. The child is placed in a pre-adoptive placement.
3. The child has a treatment need for which no service exists or can be created in a reasonable period of time in West Virginia.
4. The out of state placement is in closer proximity to the child's home than a comparable in-state program.
5. The child's current foster family moves out of state and the child's permanency plan indicates continued placement with this foster family.

## 9.2 Referral Process/Documentation

### 9.2.1 Cover Letter

This letter, on official letterhead stationery, will outline the following:

- Reason for out-of-state placement.
- Statement indicating the entity having legal custody of the child.
- Plans for meeting the cost of care in the receiving state.
- Permanency goal and brief statement of case plan.
- Child's Title IV-E eligibility.
- Name and address of person to be studied.

### 9.2.2 Required Documents

- ICPC-100A- Placement Request-Completed by the child's Adoption Worker in CCWIS. This is the sending agency's formal written notice to the receiving state of its intention to make an interstate placement and a request for a finding as to whether the placement would or would not be contrary to the interests of the child. With most placements, it is also a formal request for a home study. Following review by the receiving state, this form becomes the official notification that the proposed placement may or may not be made (original and four copies are to be submitted to the ICPC worker)
- ICPC-100B-Placement Status-This form is used to confirm an approved placement has occurred, to indicate any changes in the placement, to show case planning status, or to confirm termination of the ICPC contract (original and four copies are to be submitted to the ICPC worker).
- Court Orders-Indicating court has jurisdiction over the child, who has legal/physical custody, and termination of parental rights (three copies are to be submitted to the ICPC worker).

Child Summary-This form can be produced in CCWIS and will contain identifying information on birth parents, family history, child's race/ethnicity, Permanency Plan, reason child is in care, current adjustment, previous placement history, reason out-of-state placement is required, child's special needs, goals and anticipated length of placement, and post-placement plans. (3 copies are to be submitted to the ICPC worker) The information gathering should begin at the onset of the removal and continue throughout the life of the case. This form is an ongoing document, and every effort should be made to have the summary completed by the DHHR child welfare worker. However, this is not always possible due to delays in permanency and additional information arising once the adoption case is transferred to a child placing agency, making it necessary for child placing agency case-workers to finalize the child summaries. The document should be updated by the ongoing child welfare workers on a frequent basis and throughout the duration of their involvement in the case. This document is to be provided to the adoptive family for their records once permanency is achieved. Under no circumstances should a foster, adoptive, or kinship/relative provider complete the child summary.

- Home Study-Attach a current home study (within 12 months) if one is not being requested (three copies are to be submitted to the ICPC worker).
- Medical/Financial Plan-This consists of a statement describing how the child's need for food, clothing, shelter, medical care, and related maintenance will be met in the prospective out-of-state placement and who will meet it. In accordance with W.Va. Code [§49-7-101](#), the sending agency is financially responsible for the maintenance of the child (three copies are to be submitted to the ICPC worker).
- Statement of IV-E Eligibility (three copies are to be submitted to the ICPC worker).

### 9.3 Education

There are some state's Boards of Education that will not provide a free public education for a foster child in a pre-adoptive placement. They consider the child a resident of West Virginia and expect payment from West Virginia for the child's education. Arrangements must be made with the Contract Specialist for payment that school system, so the child might attend a public school in the community of the pre-adoptive parent.

### 9.4 Placement Notification

The ICPC Specialist will notify the Adoption Worker of approval of a home. The child may not be placed in an out-of-state placement until the worker has received this notification.

## 9.5 Worker Contact

Regular contact between the child and the Adoption Worker allows the child to have ample opportunity to express concerns, fears, problems with the placement, or other special issues. These meetings also provide the child's worker with an opportunity to directly assess the child's progress. The frequency and intensity of contacts between the child's worker, the child and the foster/adoptive family will be determined by the individual needs and problems of the child and their family.

### Worker Actions

The child's worker is required to maintain contact with the child either by telephone or face-to-face to assure the placement is meeting the child's needs. During each visit, the worker will provide an opportunity to have time alone with the child to address any concerns or issues related to the child's needs or placement. (If the child is physically, emotionally, or developmentally unable to communicate, the worker may fulfill this requirement by discussing the child's progress with the caretaker.)

Requirements for worker and child visits are as follows:

1. The child's worker will have telephone or face-to-face contact with the child and foster/adoptive parent within 72 hours of placement to assess the child's adjustment to the placement.
2. The child's worker is required to have continuing meaningful face-to-face contact with the child and foster/adoptive parents, at least once a month.
3. The child's worker is expected to meet with the child during the worker's visits to the home. The worker will be required to visit the out-of-state foster/adoptive home at least once every three (3) months. Out-of-state visits require the approval of the Regional Director. Out-of-state travel regulations apply.
4. The child's worker will have face-to-face contact with the child's parents on a monthly basis while the child is in foster care or until parental rights are terminated, unless ordered by the court.
5. The child's worker will have contact with the out-of-state agency staff at least once a month to assure monthly contacts are being made with the child and foster/adoptive parents or to assess and/or address any placement issues or concerns.
6. In addition to the required, monthly contact with the child and the requirements for face-to-face contact with the child, the child's worker will utilize other opportunities, such as Multidisciplinary Treatment Team meetings, Individualized Educational Plan Meetings, child and parent visits, etc., to meet individually with the child.
7. The child's worker must document all contacts with the child, foster/adoptive parents, other agency staff and child's parents in CCWIS, in the contacts Screen, within five working days of the contact being made. The documentation must contain the date and content of the contact. The child's worker must document all face-to-face contacts with the

child, foster/adoptive parents, and any other person involved in the case within three business days of the contact being made.

There are circumstances that may require special attention or more frequent contacts with the child such as the following:

1. The child has experienced separation or loss, needs medical care or hospitalization, has other disturbing experiences, or has social or school problems.
2. There is going to be a transfer of the child's worker.
3. There are new or additional problems in the child's biological family.
4. A child has severe problems of maladjustment and difficult behavior.

## 9.6 Supervision of Placement

### 9.6.1 Supervisory Services

The Adoption Worker will indicate on the ICPC 100A what type of Supervisory Services are requested. It is usually the public social service agency which will be asked to provide supervision following an approved home study and subsequent placement. If other options are to be used, the worker will place an X in the appropriate box:

- 1) Request Receiving State to Arrange Supervision: This applies if West Virginia cannot supervise and does not have a contractual or other agreement with a pre-determined agency to provide these services.
- 2) Another Agency Agreed to Supervise: Mark this box if W.V has received the formal agreement of a pre-determined supervisory agency. This is most likely to be marked in agency adoptive placements in which an agency in the receiving state has provided an adoptive home study and will providing ongoing services to the adoptive family.

In this situation, the worker must contact OSS, Division of Contracts, Grants and Agreements, Contract Specialist for Out of State/Adoption in order to arrange the supervision contract and payment for this service prior to the child entering any trial placement.

- 3) Sending Agency to Supervise: Mark this box if it is logistically feasible, it is the best-case plan, and the receiving state has granted DHHR permission to provide services in the state.

### 9.6.2 Supervisory Reports

This section of the ICPC 100A should be completed even though placement may not be a certainty. The worker must indicate the desired frequency of receiving progress reports. The most common is Quarterly. The worker will select "Other" if another time frame is requested—such as monthly or annually (time frame should be indicated).

## SECTION 10 – CASE MANAGEMENT

### 10.1 Journey Notebook

A Child/Youth Journey Placement Notebook is given by the worker to the foster/pre-adoptive parent of each child in care. It is to be kept in a secure place by the Provider until the child is returned home or moved to another placement. The Journey Placement Notebook is to stay with the child and will contain information about the child such as the Foster Care Plan, Child Summary, Birth and Medical History, Child's Case Plan, clothing inventory, medical and educational contact information, etc. The notebook also contains blank Out-of-Home Observation Reports to be completed monthly by the foster parent and provided to the MDT. The provider may also use this notebook to document any changes in medications or treatment, list important addresses and phone numbers, prepare for appointments, and file health history information.

### 10.2 Life Book

A life book is a family album that must be started for all foster children coming into placement. It is a combination of a photo album and a scrap book that chronicles events and memories in the child's life. If the child does not have one, the foster/adoptive parent must purchase one. The worker should attempt to obtain pictures and information about the child's milestones. (i.e. age they lost their first tooth, when they began walking, talking, etc.)

The foster/adoptive parents should keep this book up to date by adding photographs, drawings, awards, report cards, etc. If a child is moved, it is imperative that the worker assure their life book is hand carried to the new placement.

### 10.3 Youth Identification Card Program

When children enter the foster care program, we do not always have an updated photo of the child. The Youth Identification Card program can provide an identification card for every child who enters the system from two years old to fifteen years. The identification will follow the child throughout their stay in the foster care system and may be utilized to track a child who may become missing. This card can be renewed every two years.

### 10.4 Reunification and Separation of Siblings

[W.Va. Code §49-4-111](#) requires the Department to place siblings together when placing a child in foster care who also has siblings in care or previously adopted. Siblings are defined by [W.Va. Code §49-1-204](#) as "Children who have at least one biological parent in common or who have been legally adopted by the same parents or parent." When a child is placed into foster care or becomes eligible for adoption and a sibling or siblings have previously been placed in foster care or have been adopted, the Department shall notify the foster/adoptive parents of the previously placed siblings of the child's availability for foster/adopt placement to determine if the foster/adoptive parents are desirous of seeking a foster/adopt arrangement of the child. (Provided, that the department may petition the court to waive notification to the foster parents or adoptive parents of the child's siblings. This waiver may be granted upon a showing of compelling circumstances.)

In some circumstances, children in foster care may need to be placed separately from their siblings who are also in care or have been previously adopted. This may occur when one sibling is a danger to their siblings or when a large group is being removed from their home and a placement resource, to allow all the children to be placed together, is not available. If a child's case plan includes placement of the child separately from their sibling, the worker must secure a court order which finds that it is in the child's best interest not to be placed in the same home as their sibling. This order must be documented on the Hearings Outcome screen, Details screen, and in Document Tracking in CCWIS.

### 10.5 Sibling Visitation

The child's worker is responsible for ensuring the visitation plan is followed. The worker will provide a copy of the visitation plan to the child's foster/adopt parents. These parents should provide routine transportation for visitation, if possible. If transportation is a hardship for the foster/adopt parent, the child's worker will provide the transportation to enable the visit to occur. The child's worker will document the visitation plan in CCWIS on the Visitation Plan screen.

### 10.6 Worker Contacts/Visits

Level of Care	Initial After Placement F/F	With Child F/F	With Care-taker F/F	With Family F/F	With Other Agency SW and Staff Telephone or F/F
Kinship/Relative	72 hrs.-face-to-face at kinship home	Monthly at kinship home	Monthly at kinship home	Monthly until TPR or other court order	N/A
DHHR Foster to Adopt Including approved relative Foster/Adopt	72 hrs.-face-to-face at foster home	Monthly at foster home	Monthly at foster home	Monthly until TPR or other court order	N/A
Specialized Agency Foster to Adopt	72 hrs.-face-to-face by <i>Specialized Agency Staff</i>	F/F monthly by Every 3 mon. at foster home	Telephone and/or face-to-face monthly; Every 3 mon. at foster home	Monthly until TPR or other court order	Monthly with Specialized Agency staff regarding their contacts and services
Group Care (Residential or PRIF)	72 hrs. telephone or face-to-face	F/F monthly	Telephone and/or F/F monthly;	Monthly until TPR or	Monthly with residential staff



			Every 3 mon. F/F	other court order	
Medley Su- pervised by specialized agency	72 hrs. face- to-face by DHHR or Specialized Agency Worker	F/F monthly	Every 3 mon. face-to-face	Monthly un- til TPR or other court order	N/A
Out of State	72 hrs. tele- phone or face-to-face	F/F Monthly	Every 3 mos. at facility	Monthly un- til TPR or other court order. Worker should also visit child during home visit with parents	Monthly with residen- tial staff or with Special- ized Agency staff regard- ing their con- tacts and services

\*\*Visits should include private time with the child.

This chart does not include contacts that occur at school, MDT's, court hearings, and other settings

#### 10.6.1 Contacts with In-State DHHR Foster/Adoptive Homes

Regular contact between the child and the Adoption Worker allows the child to have ample opportunity to express concerns, fears, problems with the placement, or other special issues. These meetings also provide the child's worker with an opportunity to directly assess the child's progress. The frequency and intensity of contacts between the child's worker, the child and the foster/adoptive family will be determined by the individual needs and problems of the child and their family. The period of post placement services extends from the date the SS-ADP-48 is signed to the finalization of the adoption.

#### Worker Actions

The child's worker is required to maintain contact with the child either by telephone or face-to-face to assure the placement is meeting the child's needs. During each visit, the worker will provide an opportunity for time alone with the child to address any concerns or issues related to the child's needs or placement. (If the child is physically, emotionally, or developmentally unable to communicate, the worker may fulfill this requirement by discussing the child's progress with the caretaker.)

Requirements for worker and child visits are as follows:

1. The child's worker will have face-to-face contact with the child and caretaker at the foster home within 72 hours of placement to assess the child's adjustment to the placement.
2. The child's worker is required to conduct face-to-face contact with the child and caretaker, in the foster/adoptive home, at least once a month. A minimum of six face-to-face visits will be made during the post placement period. The six face-to-face visits coincides with the requirement that the child must be placed in the home for six consecutive months before the child can be adopted by the family. Visits must be made monthly to span a six-month period. The visits made by the previous CPS worker, prior to the transfer to the adoption unit, can be considered as part of the six face-to-face visit requirement, however the adoption worker must make two of the required visits to the adoptive home prior to the adoption hearing. At least three of the face-to-face visits will occur in the home.
3. In addition to the required, monthly, in-home visits, the child's worker will utilize other opportunities, such as Multidisciplinary Treatment Team meetings, Individualized Educational Plan Meetings, child, and parent visits, etc., to meet individually with the child.
4. The child's worker must document all contacts with the child, foster/adoptive parents, and child's parents in CCWIS, in the CONTACTS SCREEN, within five working days of the contact being made. The documentation must contain the DATE and CONTENT of the contact. The child's worker must document all face-to-face contacts with the child, foster/adoptive parents, and any other person involved in the case within three business days of the contact being made.

There are circumstances that may require special attention or more frequent contacts with the child such as the following:

1. The child has experienced separation or loss, needs medical care or hospitalization, has other disturbing experiences, or has social or school problems.
2. There is going to be a transfer of the child's worker.
3. There are new or additional problems in the child's biological family.
4. A child has severe problems of maladjustment and difficult behavior.

### **10.6.2 Contacts with Specialized Agency Homes**

The above standards will be followed with Specialized Agency homes with the following exceptions:

1. The Specialized Agency staff worker (Instead of the Adoption Worker) will be required to have face-to-face contact with the child and caretaker, at the foster home, within 72 hours of placement to assess the child's adjustment to the placement.

2. The child's worker will have meaningful contact with the child and the caretaker either by telephone or face-to-face at least once a month. The child's worker must have face-to-face contact with the child and caretaker, at the foster home, at least once every three months. It is highly recommended that face-to-face contact be made more frequently for those children placed within the District. The child's worker must document all face-to-face contacts with the child and caretaker within three business days of the contact being made.
3. The child's worker will have contact with the specialized foster care agency staff at least once a month to assure that bimonthly contacts are occurring with the child and caretaker and to assess and/or address any placement issues or concerns.

### **10.6.3 Contacts with Residential Treatment Homes**

Regular contact with a child in a residential home will follow the same standards as those for a child in an in-state DHHR adoptive home with the following exceptions:

1. The majority of contacts between the child and the child's worker will be made at the residential treatment facility.
2. The child's worker will have telephone or face-to-face contact with the child and provider, at the facility, within 72 hours of placement to assess the child's adjustment to the placement.
3. The child's worker will have meaningful contact with the child either by telephone or face-to-face, at the facility, at least once a month. The child's worker must have to face contact with the child and the caretaker, at the facility, at least every three months. It is highly recommended that face-to-face contact be made more frequently for those children placed within the district. The child's worker must document all face-to-face contacts with the child within three business days of the contact being made.
4. The child's worker will also have contact with the group/residential care agency staff at least once a month to assess and/or address any placement issues or concerns.

### **10.6.4 Contacts with Out-of-state Adoptive Homes**

The child's worker will be expected to maintain the same standards for contacts as with in-state DHHR homes with the following exceptions:

1. The child's worker will have telephone or face-to-face contact with the child and provider within 72 hours of placement to assess the child's adjustment to the placement.
2. The child's worker will have meaningful contact with the child and provider either by telephone or face-to-face at least once a month. The child's worker must have face-to-face contact with the child and caretaker at the foster/adoptive home at least once every three months. The child's worker must document face-to-face contact with the child and provider with three business days of the contact being made.
3. Out of state visits require the approval of the Regional Director and out of state travel regulations apply.

4. The child's worker will have contact with any out of state agency staff involved in the case at least once a month to assure that monthly contacts are being made with the child and provider to assess/or address any placement issues or concerns.

## **10.7 Continued Assessments/Case Plan/Hearings**

Continual assessments are an integral part of foster care and foster/adopt placements. Statute requires that the status of each child be reviewed to determine:

1. The continuing need for placement
2. The continuing appropriateness of the placement,
3. Compliance with the case plan, and
4. A likely date by which the child may achieve permanency.

Throughout the casework process and the court proceedings, the Child, Youth and Family Case Plan may change. Modifications should be made in CCWIS, saved to the CCWIS File Cabinet and distributed to all members of the MDT and filed with the court as appropriate.

In the case of a child whose permanency plan is adoption, documentation must be made of the steps being taken to find a permanent living arrangement including child specific recruitment efforts.

### **10.7.1 Permanent Placement Reviews/Quarterly Status Review/Permanency Hearings**

[W.Va. Code 49-4-608](#) directs the need for and content of permanency hearings and permanent placement reviews.

[W.Va. Code 49-4-110](#) states that for those youth who remain in foster care, either as a result of a juvenile proceeding or of a child abuse and neglect proceeding, the circuit court along with the MDT shall conduct a quarterly status review.

(Workers must refer to Foster Care Policy Section 6.2 and 6.3 for full description as well as workers responsibilities regarding Permanency Hearings, Permanent Placement Reviews and Quarterly Status Reviews).

## **10.8 Permanency Placement Reviews**

When the court terminates parental rights and commits the child to the guardianship of the Department, the child's worker will initiate the permanency placement review process. If the child's permanency plan is adoption:

1. The child's case must be transferred to the Adoption Unit within 30 days of the receipt of the court order of the final Termination of Parental Rights.
2. The child must be referred to the Adoption Resource Network within 30 days of termination of at least one parent's rights for inclusion on the state's adoption web page and for statewide child specific recruitment programs.

3. The worker must develop the post-termination placement plan and submit it to the court, Guardian Ad Litem, and all Multidisciplinary Treatment Team members. This plan must be submitted within 90 days of the date of the hearing at which parental rights were terminated. This plan must describe the Department's progress toward arranging an adoptive home or other permanent placement; a schedule and description of the steps necessary to place the child in an adoptive home; a discussion of any special barriers preventing placement of the child for adoption or other permanent placement and how they can be overcome; and a discussion of whether an adoption subsidy is needed and if so, the likely amount and type of subsidy required.
4. An updated post-termination placement plan must be prepared and submitted prior to each permanent placement review conference.
5. The court must submit an order determining whether permanent placement has been achieved. This order must also verify the hearing meets the judicial review requirements if a judicial review has not been conducted within the preceding 12 months.
6. If the permanent plan has not been achieved within 18 months of the child entering foster care, the child's worker must present to the court the reasons for the delay in achieving the child's permanency plan and request that the court find on the record whether or not extraordinary reasons were sufficient to justify the delay in permanency.
7. If a child is removed from a permanent placement, the permanent placement review process must be initiated. The child's worker will promptly report the change in the child's circumstances to the court, Prosecuting Attorney, and Guardian ad Litem and request that the court schedule a permanent placement review conference within two months of the child's removal.
8. The Adoption Worker must document the court review in CCWIS on the court screens including whether a finding of reasonable efforts to finalize the permanency plan for the child was obtained.

### **10.9 Life Skills**

Foster care or pre-adoptive care is a transitional living arrangement. For those children, the Department has the responsibility to help them develop into self-sufficient adults. For all foster children over the age 14, the child's caseworker or Adoption Worker is responsible for assessing the child's potential for eventual independence. Once the assessment has been completed, the worker must develop an appropriate plan for securing and providing necessary services to assist each youth to achieve independence. Continuous reviewing and modifying of this plan may be necessary until the child achieves their permanency goal.

## 10.10 Learning and Transition Plans

The transition/learning plan are guides that the youth and the youth's worker will use to determine the needed elements for the development of the life skills curriculum and the youth's transition to adulthood. An individual transition/learning plan may be based on selected learning goals and related expectations as the youth transitions to adulthood. The youth, in conjunction with the worker, must develop their own transition/learning plans.

The transition/learning plan is used to document the selected learning goals and activities the youth's worker and/or provider will use during life skill learning sessions and as the youth transitions to adulthood. Once completed the transition/learning plan will provide documentation of all the youth's planned life skill instructions. Life skills instructions may be completed one-on-one or in a group and will be documented on the learning and transition plans. The transition/learning plan should indicate whether the life skill instruction was provided in a group setting or on a one-on-one basis.

Transition planning is a vital part of the youth's case plan. The plan should be developed as soon as the youth completes a Life Skill Assessment but must be completed within the first 30 days of the youth turning 14. The plan must be specific for the youth and contain information that will assist the youth in their successful transition to adulthood.

The youth's worker and the youth will update or revise the transition/learning plan at least every ninety (90) days, prior to the youth turning eighteen (18) years old.

The plan must be personalized by the youth and must contain as much detailed information as the youth decides to incorporate into the plan.

The plan must contain the following specific information:

- A) Housing options and services.
- B) Education plans and services.
- C) Employment services.
- D) Health insurance options.
- E) Local opportunities for mentoring.
- F) Work force supports.
- G) Information concerning consumer credit report checks.
- H) Continuing support services.

- I) Health care directives and how to complete an “advance directive”, when requested; and
- J) Any other information that the youth deems important.

The youth’s worker must incorporate the Learning/Transition Plan into the “Unified Child or Family Case Plan” for CPS or the Youth Services Family or Child Case Plan for Youth Services.

### 10.11 Socially Necessary Services

Socially Necessary Services are interventions that are necessary to improve relationships and social functioning with the goals of preserving the individual’s tenure in the community or the integrity of the family.

An Administrative Service Organization (ASO) is an agency that is contracted to provide administrative services to enforce the purchaser’s policies. The Administrative Service Organization will:

- Develop Utilization Management Guidelines for social necessary services provided by the Bureau for Social Services for family foster care, family preservation and reunification, family support, and adoption services.
- Require prior authorization to obtain these services thus assuring children and families will receive the right service, for the right amount and in the right place.
- Provide a consistent service array and reimbursement to all regions.
- Assure consistent application of BSS policies in service delivery and payment.
- Identify service gaps and availability.

The manual of socially necessary services is titled [Utilization Management Guidelines](#). This manual contains all the information about the services available to the clients and is organized into two parts: Child Protective Services and Youth Services. The Manual is available for download by opening the link above.

The Utilization Management Guidelines offers the following data on each service provider:

- Definition - Describes the service in detail and what the service should accomplish.
- Target Population.
- Initial Authorization - Describes the service in detail and what the service should accomplish.

- Admission Criteria - Describes the conditions that must be present for a client to be eligible for a service.
- Continuing Stay Criteria - Describes under what conditions a service would end.
- Service Exclusions - Describes what services could preclude another service being offered.
- Clinical Exclusions - Considers the severity of the clinical picture that may preclude using.
- Documentation - Describes what paperwork needs to be a part of the permanent case record.
- Credentials - Describes what qualifications are needed for the staff providing the service

## 10.12 Services Offered - Foster Care

Services begin after a child is removed from the home and placed in family foster care or residential care. Services for foster or pre-adoptive children include the following:

- Adult Life Skills
- General Parenting
- Individualized Parenting
- Family Crisis Response
- Emergency Respite
- Daily Respite
- Tutoring
- Transportation Services
- Lodging and Meals
- Supervised Visitation
- Intensive Therapeutic Recreation Experience
- Home Studies (In-state and Out-of-State)

### 10.12.1 Services Offered – Adoption Preservation

Adoption Preservation services include the following:

- Case Management Services
- Family Crisis Response
- Crisis Respite
- Individualized Parenting
- Public Transportation
- Private Transportation
- Lodging
- Meals
- Agency Transportation



### **10.12.2 Accessing the Services**

The adoptive family will contact the county DHHR office to request services. The social worker will refer the family for an assessment. The results of the assessment will recommend services needed for the family.

### **10.12.3 Denied Provider**

If a denied provider disagrees with this determination, he may appeal via a multi-step process: Any appeal would first be reviewed by an ASO Care Manager. If the denial is upheld by the Manager, it would next be reviewed by the ASO Internal Review process. After denial by this review, the provider may appeal to the WVDHHR Review Committee and finally request a fair hearing.

## **SECTION 11 – ADOPTION PROCESS**

### **11.1 Placement**

#### **11.1.1 Placement Day**

The day a trial adoption placement begins, the Adoption Placement Agreement and the Discipline Policy Agreement will be signed and dated. A copy of the agreement will be given to the adoptive parents.

Prior to placement, the adoptive parent should be given a current child summary, medical information, and non-identifying birth parent medical information, Birth and Medical History of Child and Birth Parent Background information- (merge forms).

The worker will exit the child from any foster care placement and enter them into the adoptive record. This will generate a boarding care payment and a medical card.

#### **11.1.2 Child's Information/Possessions**

The child's life book, journey notebook, clothing and personal belongings must follow the child into the placement.

### **11.2 Placement Support**

#### **11.2.1 Support Groups/Mentors**

It is important for foster/adoptive families to be supported in their efforts to provide care and nurture the children placed in their homes. One way to do this is through regular contact between Department staff and the foster/adoptive parents. In addition, there are other opportunities that Home Finding staff and the Adoption Worker should pursue to provide support for families.

1. Local foster parent associations provide members with an opportunity to interact with others who may be encountering similar experiences. These meetings often function as support groups, training opportunities, recreational activities, etc.

2. For new foster/adopt parents who may need more direct assistance and support than that provided by the local foster parents association, or in areas where there is no foster parent association, the Adoption Worker with help of the Home Finder should identify an established foster/adoptive family to mentor the new family. Mentoring by an established foster/adoptive family to mentor the new family. Mentoring by an established foster/adoptive family provides guidance, support, and direction to new foster/adoptive parents through the many obstacles and difficult situations that may occur.

### **11.2.2 Initial Clothing Allowance**

All children must have an adequate basic wardrobe for all seasons and routine functions. If a child does not have an adequate basic wardrobe at the time of placement, items of clothing may be purchased by the foster/adopt parents, relative or agency using a clothing allowance. See section 3.3 Initial Clothing Assessment and Allowance in Foster Care policy.

### **11.2.3 School Clothing Allowance**

Currently, the Department provides a school clothing allowance for children in the custody of the department. This allowance is normally mailed to foster care providers in July. The allowance will cease at finalization of the adoption.

## **11.3 Requests for Release and Consent for Adoption**

For a child who is in the custody of the Department to be adopted, the Department must consent to the adoption. The petition for adoption must be accompanied by the Release and Consent for Adoption at the time of filing. The consent cannot be granted until the child to be adopted has lived with the adoptive parents for a period of five (5) months and the required worker visits have been made and documented. The Adoption Worker will prepare, in triplicate, the Release and Consent for Adoption and forward it to the Regional Director or designee to be signed and notarized.

One original will be retained in the child's adoptive paper file. The second original will be given to the adoptive parents' attorney. The third original will be included in the information packet to be sent to the Adoption Program Specialist at the Bureau for Social Services .

## **11.4 Application for Subsidy Adoption**

The Application for Subsidy Adoption is an agreement negotiated between the adoptive parent(s) and the Department which defines the type of adoption assistance the adoptive parents are eligible to receive for the child. This agreement must be entered into prior to the finalization of the adoption.

## **11.5 Adoption Packet**

The Adoption Worker will prepare a complete adoption court packet to be given to the adoptive parent's attorney. This packet will contain everything needed to complete the adoption including the following:

1. One certified copy of the court order(s) terminating parental rights for all persons identified as having such rights or a certified copy of the Death Certificate for a birth parent who died prior to termination of rights. If the parent relinquished rights, the packet will contain a notarized copy of the child's Placement Agreement giving custody to the Department or a notarized copy of the child's relinquishment with the court order ratifying this relinquishment.
2. One certified copy of the child's birth certificate.
3. One certified Sibling Separation Court Order and/or any court orders relating to grandparents or other relatives' rights.
4. One original Adoptive Home Study and any updates.
5. One original Child's Social Summary.
6. One original initially signed Adoption Subsidy Agreement and any modifications or addendums; and
7. One original signed and notarized Release and Consent for Adoption.

### **11.6 Filing of the Petition**

The adoptive family must obtain an attorney to file the petition for adoption. Under no circumstances, is an adoption worker to give recommendations or advice on hiring an adoption attorney. Once an attorney is hired by the family, the adoption petition may be filed by the attorney for the adoptive parents at any time after the adoptive placement has been determined and all consents or relinquishments that can be obtained have been executed. The hearing on the petition may be held only after the child has lived with the adoptive parent or parents for a period of six months, proper notice of the petition has been given and all necessary consents or relinquishments have been executed and submitted or the rights of all nonconsenting birth parents have otherwise been terminated. The adoption petition may be filed in either the county where adoptive parent or parents reside or in the same county as the original abuse and neglect proceeding regarding the minor child.

### **11.7 Absent or Unknown Parent**

In the case of an unknown father (A biological father whose identity the biological mother swears is unknown to her before adoption), the court will consider all evidence and determine whether the father can be identified. This consideration will be accomplished as soon as practicable after filing of the petition, but no later than sixty (60) days before the final hearing on the adoption petition.

If the court identifies a father, then notice of the proceeding for adoption must be served on the father.

If the court decides the father is unknown, it may decide whether or not to order the publication of a notice in a newspaper in order to notify the father.

### 11.8 Notice of Proceeding

Unless waived, notice of a proceeding for adoption must be served within twenty days after the petition is filed upon:

1. Any person whose consent is required ([W.Va. Code 48-22-301](#)). Notice does not have to be served on a parent/guardian whose status has been terminated.
2. Anyone claiming to be the father of the child and whose paternity is pending.
3. Anyone other than the petitioner who has legal or physical custody of or visitation rights with the child under an existing court order.
4. The spouse of the petitioner if the spouse is not part of the petition.
5. A grandparent of the child if the grandparent's child is a deceased parent of the child and the deceased parent had not consented or relinquished or been terminated prior to death.
6. Anyone the court feels can provide relevant information that the court wants to hear.

The notice will inform these recipients that their parental rights, if any, may be terminated in the proceeding and that they may appear and defend these rights within the required time after service.

### 11.9 Confidential Report to Judge

The Adoption worker will prepare a confidential report to be submitted to the judge prior to the hearing. This report will contain written information about the child and the home and will also consist of the Adoption Worker's opinion of whether the family should be approved to adopt the child.

### 11.10 Adoption Hearing

The Adoption worker will attend the adoption hearing and be prepared to respond to questions or a request for information from the presiding judge. At the conclusion of the hearing, the worker must request a certified copy of the adoption order.

At the final hearing, the judge will examine the petitioners to assure they are of good moral character, have respectable standing in the community, are able to properly maintain and educate the child, and that the best interests of the child would be promoted by the adoption. The judge will then make an order of the facts and the name by which the child will be known. He will declare that from the date of the order, the rights, duties, privileges and relations, previously existing between the child and anyone with previous parental rights, will end. He will also declare the rights, duties, privileges and relations between the children and their parent or parents by adoption shall be the same, including the rights of inheritance, as if the child had been born to the adoptive parents.

### **11.11 Recording the Order and Birth Certificate**

The adoption order shall be recorded in the office of the clerk of the circuit court in a sealed file. Non-identifying information shall be provided to the adoptive parents or an adult adoptee by their submitting a request to the clerk of the court. Either birth parent may submit additional social, medical, or genetic history for the adoptee. This information will be placed in the court file by the clerk who will also notify the court. The court will then transmit all non-identifying medical, social, or genetic information to the adoptive parents or adult adoptee.

Immediately upon the entry of the adoption order, the court shall have delivered to the state registrar of vital statistics a certificate under the seal of the court showing:

1. The date and place of birth of the child.
2. The name of the mother of the child, if known and the name of the legal or determined father of the child, if known.
3. The name by which the child has previously been known.
4. The names and addresses of the adopting parents.
5. The name by which the child is to be known; and
6. Any other information required by Vital Statistics.

Upon receipt of the certificate, the registrar of vital statistics shall issue and deliver by mail to the adopting parents at their last-known address and to the clerk of the county commission of the county in which the order was entered a birth certificate. The name of the child shown on this certificate shall be the name given them by the order of adoption. The clerk will record the birth certificate.

### **11.12 Notification to Child Support**

After consummation of the adoption, the Adoption Worker will notify Child Support of the finalization in order to stop accrual of child support obligations.

## **SECTION 12 – ADOPTION/SUBSIDY**

### **12.1 Purpose**

The purpose of the adoption assistance program is to provide medical and financial assistance on behalf of special needs children in order for adoptive families of any economic level to properly care for them. These services are designed to supplement rather than replace the resources of the adoptive family and community.

### **12.2 Eligibility**

Adoption assistance payments may be made to parents to adopt a child with special needs. In order to qualify for an adoption subsidy, a child must be a West Virginia resident in the guardianship of the Department or a private licensed adoption agency.

According to [W.Va. Code §49-4-112](#), children are considered in a special circumstance (special needs) because one or more of the following conditions inhibit their adoption:

- They have a physical or mental disability;
- They are emotionally disturbed;
- They are older children;
- They are a part of a sibling group; or
- They are a member of a racial or ethnic minority.

In any case where the child meets the requirements of section 473(a)(2) of the Social Security Act (Act), the State/Tribe may make adoption assistance payments to adoptive parents, directly through the State/Tribal agency or through another public or nonprofit private agency, in amounts so determined through an adoption assistance agreement:

a. the State/Tribe has determined, pursuant to established criteria, that the child cannot or should not be returned to the home of their parents; and

b. Either:

- The State/Tribe has determined that there exists with respect to the child a specific factor or condition such as:
  - Physical or mental disability.
  - They are emotionally disturbed.
  - They are an older child (Per WV DHHR Policy age eight or older).
  - They are part of a sibling group.
  - They are a member of a racial or ethnic minority.
  - Or they have a combination of these conditions and because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under title XIX.
  - The child meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits.
  - Reasonable efforts to place a child without a subsidy as described in this section shall not be required if it is in the best interest of the child because such factors as the existence of significant emotional ties have developed between the child and the prospective adoptive parent while in foster care.

In the case of a child who is an applicable child for the fiscal year as defined in 473(e) of the Act, adoption assistance payments may be made if the child has been determined by the State/Tribe pursuant to section 473(c) of the Act to be a child with special needs and;

- a. the time of the initiation of adoption proceedings the child was in the care of a public or licensed private child placement agency or Tribal agency pursuant to-
  - an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or
  - a voluntary placement agreement or voluntary relinquishment; or
- b. meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits; or
- c. was residing in foster family home or childcare institution with the child's minor parent, and the child's minor parent was in such a foster family home or childcare institution pursuant to
  - i. an involuntary removal of the child from the home in accordance with the judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or
  - ii. a voluntary placement agreement or voluntary relinquishment; and
- d. has been determined by the State or Tribe, pursuant to subsection 473(c)(2), to be a child with special needs.

In the case of a child who is an applicable child for the fiscal year as so defined in 473(e) of the Act, the child will be treated as meeting the requirements to receive adoption assistance payments if the child:

- a. meets the requirements of 473(a)(2)(A)(ii) (II) of the Act; and
- b. is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made; and
- c. 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.

### **12.2.2 Federal Reimbursement Eligibility**

In order to be federally reimbursed through Title IV-E of the Social Security Act, these criteria must be met. This determination is to be made by the IV-E Unit. IV-E eligibility does not affect eligibility for a subsidy.

Applicable Child: Beginning January 1, 2018, title IV-E agencies must determine whether a child is an “applicable child” based on the child’s age by the end of the fiscal year their adoption assistance agreement was entered into as demonstrated by the table below:

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017 - 2023	2
2024	2 (or in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age)
2025 or thereafter	any age

b. a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under section 473 of the Act if the child has been in foster care under the responsibility of the State/Tribal agency for at least 60 consecutive months and meets the requirements of paragraph 473 (a)(2)(ii) of the Act- in the case of a child who is an applicable child for the fiscal year (as so defined), the child---

(l)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to--

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or childcare institution with the child’s minor parent, and the child’s minor parent was in such foster family home or childcare institution pursuant to—



(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs –or

c. a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in 473€(2)(A) of the Act -has been in foster care under the responsibility of the State for at least 60 consecutive months – if the child

i. is to be placed in the same adoption placement as their sibling who is an applicable child for the fiscal year; and

ii. is to be placed in the same adoption placement as their sibling who is an applicable child for the fiscal year; and

iii. meets the requirements of 473 (a)(2)(A)(ii) of the Act –

(ii)in the case of a child who is an applicable child for the fiscal year (as so defined), the child---

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or childcare institution with the child’s minor parent, and the child’s minor parent was in such foster family home or childcare institution pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs

## 12.3 Subsidy Categories

### 12.3.1 Financial Subsidy

Effective July 1, 2020, a monthly maintenance payment no less than \$790.00 per child will be paid to adoptive DHHR parents of children with special needs. Effective December 1, 2020 the following rates based on age are in effect:

<b>Age Range</b>	<b>Daily Subsidy Amount</b>	<b>Monthly Subsidy Amount</b>
0-5	\$26.00	\$790.00
6-12	\$28.00	\$851.00
13-21	\$31.00	\$942.00

Adoptive parents who provided foster care for the adoptive child prior to adoption through the DHHR or a child placing agency will receive no less than \$790.00 unless a rate increase is approved. Subsidy rate increases will only be considered on a case-by-case basis and will require a waiver from the Director of Social Services or designee. Adoptive parents must contact the office of Children and Adult Services if they are seeking adjustments to post-adoption subsidy payments. Subsidy increases are only considered in circumstances when a special needs child has extraordinary medical expenses that are not covered by Medicaid, the family's insurance, and the child is not eligible for IDD waiver, or is on the waitlist. In determining eligibility for the adoption assistance payments, there is no income eligibility requirement (means test) for the adoptive parents.

In the event a child receiving a monthly subsidy receives any federally funded, statutory or other support benefits the federally funded monthly amount is to be reduced by the amount of the subsidy.

The adoptive parents are required to inform the State/Tribal agency of circumstances that would make them ineligible for adoption assistance payments or eligible for adoption assistance payments in a different amount. Payments are terminated when the State determines that:

- 1) The child has reached 18 years of age, unless the Department determines that the child has a special need which warrants the continuation of assistance or is continuing their education, or actively engaging in employment.
- 2) The child has reached 21 years of age; or
- 3) The adoptive parent or legal guardian is no longer supporting the child by performing actions to maintain a familial bond with the child.

The department shall provide assistance in the form of subsidies or other services to parents who are found and approved for adoption or legal guardianship of a child certified as eligible for subsidy by the department, but before the final decree of adoption or order of legal guardianship is

entered, there shall be a written agreement between the family entering into the subsidized adoption or legal guardianship and the department. Adoption or legal guardianship subsidies in individual cases may commence with the adoption or legal guardianship placement and will vary with the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for services, or for money payments, for a limited period, or for a long term, or for any combination of the foregoing. The specific financial terms of the subsidy shall be included in the agreement between the department and the adoptive parents or legal guardians. The amount of the subsidy may in no case exceed that which would be allowable from time to time for such child under foster family care or, in the case of a special service, the reasonable fee for the service rendered. The amount of the financial subsidy must be specified in the adoption subsidy agreement. The subsidy may be paid on a monthly basis until the child is age eighteen (18) or the child is emancipated. The adoptive parent may request approval from the Department to extend the subsidy beyond the child's eighteenth (18th) birthday if the child meets one of the following criteria;

- the child is completing secondary education or a program leading to an equivalent credential;
- the child is enrolled in an institution which provides post-secondary or vocational education;
- the child is participating in a program or activity designed to promote, or remove barriers to

Employment;

- the child is employed for at least 80 hours per month; or
- the child is incapable of doing any of the above-described activities due to a medical condition.

The adoption subsidy may be adjusted periodically with the concurrence of the adoptive parents to reflect changing circumstances. A letter of request must be accompanied by documentation of school enrollment and sent to the Bureau for Social Services, Children and Adult Services, 350 Capitol Street, Room 691, Charleston, W. V. 25301, attention: Adoption Assistance Program Specialist.

### **12.3.2 Medical Subsidy**

The department shall provide either Medicaid or other health insurance coverage for any special needs child for whom there is an adoption or legal guardianship assistance agreement who the department determines cannot be placed without medical assistance. In West Virginia, this service is provided regardless of IV-E eligibility. Where possible, the adoptive parent must add the child to their private health insurance after the adoption.

Medicaid is available regardless of the state of residence and most states have a Medicaid agreement of reciprocity through ICAMA. If the child moves to a state that does not have a reciprocity agreement, the adoptive parent will continue to receive a West Virginia Medicaid card and must locate providers who are willing to become W. V. Medicaid providers. If the adoptive parent is

unable to locate willing providers, requests for reimbursement will be considered on a case-by-case basis by the State Office.

### 12.3.3 One-Time Non-Recurring Adoption Expenses

Payments will be made for non-recurring 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/Tribal agency or through another public or nonprofit private agency, in the amount not to exceed two-thousand dollars (\$2,000) per child per adoption episode. This payment is available regardless of the child being eligible for adoption subsidy. The adoptive parent may make application for nonrecurring adoption expenses at any time prior to the finalization of the adoption of a special needs child. The following criteria must be met for the special needs child to qualify:

1. The child cannot be returned to the home of their parents because:
  - The parents have signed voluntary consents or relinquishments for adoption; or
  - Parental rights have been terminated through court action; or
  - The parents are deceased; or
  - A combination of the above.
  
2. The Department was unable to find a placement for the child without assistance because the child
  - Is a member of a minority or ethnic group; or
  - Is over the age of eight; or
  - Is a member of a sibling group needing placement together; or
  - Has mental, physical, or emotional handicaps.
  
3. Reasonable efforts have been made to place the child without providing assistance with no success as required by the [Social Security Act 473\(1\)\(c\)\(A\)&\(B\) and 473\(2\)\(d\)\(A\)\(B\)&\(C\)](#).

The reasonable efforts are specific to special needs requirements as listed above in paragraph 2.

If the child is receiving adoption assistance from another state, the state paying the assistance is responsible for reimbursement of non-recurring costs. The rules and laws of that state will determine eligibility.

A child who is not eligible for ongoing adoption assistance and for whom non-recurring expenses are paid, is not eligible for Title XIX (Medicaid).

In order to receive reimbursement, the adoptive parent must forward to the Department the following documents:

- A copy of the adoption petition

- A certified copy of the final order, and
- Copies of the bills, receipts, or invoices reflecting the allowable costs incurred by the adoptive parent.

The agreement may recognize and provide for direct payment by the department of attorney's fees to an attorney representing the adoptive parent or legal guardian. Any such payment for attorney's fees shall be made directly to the attorney representing the adoptive parents or legal guardians. In order to be set up for direct payment, the attorney has to complete and submit a W-9 form to the Department. If the adoption hearing takes place in another state, the Department will send the attorney payment to the adoptive parent(s). It is the responsibility of the adoptive parent(s) to forward the payment to the attorney that represented them through the adoption. The Adoption Assistance Program Specialist at the State Office will enter a demand payment within 14 days of receipt.

#### **12.3.4 Conditional Subsidy**

If the child qualifies for assistance at the time of the adoption, but the adoptive parents elect not to receive part or all the assistance, the family must sign the refusal clause of the Adoption Subsidy Agreement. This clause allows for reapplication for assistance, in the future, if needed by the child.

#### **12.3.5 Interstate Compact on Medical Assistance (ICAMA)**

The Interstate Compact on Medical Assistance (ICAMA) is the mechanism by which Medicaid is provided on an interstate basis to IV-E and non-IV-E children. It assures reciprocity of Medicaid coverage to a IV-E child residing in member states. A member state must choose a Cobra option as part of the state plan in order to provide Medicaid or adoption assistance to non-IV-E children.

#### *Referral to Another State*

When a potential adoptive family resides in another state, a referral to the ICAMA administrator must be made by the Adoption Assistance Program Specialist for the child to receive Medicaid in the state of residence. Once the adoption assistance agreement is in effect, the ICAMA Administrator will complete one ICAMA Referral Form 601 for the child/children being adopted. (Sibling groups require one form only). A copy of the initial adoption assistance agreement is attached to the 601 form. A copy of the adoption order and re-determination of IV-E eligibility may also be included. This ICAMA packet is sent to the ICAMA Administrator in the receiving state by the WV ICAMA Administrator.

An ICAMA Form 602 will be sent by the WV ICAMA Administrator to the adoptive parents to notify them of the referral.

An ICAMA Form 603 will be used by the WV ICAMA Administrator to notify the other state of any change in case status or address.

### *Referral Received from Another State*

The WV Administrator will receive the ICAMA 601 referral form with a copy of the initial agreement and the adoption order if the adoption has been consummated. The Resource Development Unit (RDU) Specialist will determine WV Medicaid eligibility and process the medical card for IV-E eligible children and for non-IV-E children who are receiving assistance from another state.

The RDU Specialist will open a CCWIS case for eligible children and notify the adoptive parent, the sending state, and the WV ICAMA Administrator of the case approval and date of eligibility.

## **12.4 Adoption Subsidy Agreements**

The Department will enter into one of two types of written contracts with any family who is adopting a child in the Department's custody: an Adoption Subsidy Agreement (for children who are eligible as "special needs" for a financial subsidy) or a Deferred Adoption Subsidy Agreement (for children who are not currently eligible but who may become eligible in the future).

### **12.4.1 Adoption Subsidy Agreement**

An Adoption Assistance Agreement is a written contract between the Department and the prospective adoptive parent(s). It must specify the following:

- A statement that the child is a "special needs child".
- The duration of the agreement.
- The nature and amount of adoption assistance payments.
- An explanation and duration of any additional services or assistance to be provided by the department.
- A statement defining the nature and amount of any non-recurring expenses.
- Assurance the agreement will remain in effect regardless of the child's state of residence.
- An explanation of the review process.
- Instructions specifying when and how the Department should be notified of any changes in the needs of the child.
- Conditions under which the adoption assistance may be terminated.
- An explanation of the fair hearing process.
- This agreement must be dated and signed by the adoptive parents and a Regional Director of the Bureau for Social Services , Children & Adult Services, or designee. The Adoption Program Manager will be the designee who will sign the agreement.

Once in effect, this agreement can be terminated only under the following circumstances:

- 1) The child has attained 18 years of age (unless the Department determines that the child has a special need which warrants the continuation of assistance or is continuing their education, or actively engaging in employment;
- 2) The child has obtained 21 years of age; or
- 3) The adoptive parent or legal guardian is no longer supporting the child by performing actions to maintain a familial bond with the child.

#### **12.4.2 Deferred Adoption Assistance Agreement**

A Deferred Adoption Assistance Agreement allows the adoptive parent who is not presently requesting assistance or who is not approved for assistance to receive assistance in the future if the child should develop a condition directly related to the birth parents' history or congenital in nature. In order to qualify for this deferral, there must be factors in the child's background or birth parent's histories that could predispose the child to future special needs. The parent must request the deferral prior to the adoption finalization.

If a condition develops in the child, the adoptive parent may submit a written request with medical documentation to the Bureau for Social Services to activate the child's adoption assistance. Medicaid, cash assistance, and/or a conditional subsidy may be requested. Any assistance will not be retroactive; rather, it will become effective when the child's eligibility for special needs assistance has been established.

#### **12.5 Extended Medicaid Coverage**

All children up to the age of 21, who come into the custody of the Department and are placed in foster care, may be eligible for continued Medicaid coverage upon discharge from a foster care placement. (This includes DHHR foster homes, therapeutic foster homes, specialized family care (Medley), group residential, psychiatric hospitals, psychiatric treatment facilities, medical hospitals, trial adoptive homes, transitional living, emergency shelter care, family emergency shelter care, and schools for children with special needs.)

A child's eligibility for extended Medicaid is initially determined by time of placement and continues for twelve months, whether or not they remain in placement. Eligibility is re-determined annually on the placement anniversary. A child must be in custody for the coverage to be extended.

At discharge, the worker will document the child's address in CCWIS and exit the child from placement. CCWIS will automatically generate a Notification of Extended Medicaid Coverage letter which is to be signed in duplicate by the parent/child/guardian. This form indicates that this coverage is free for children exiting foster care and that the parent must notify the department of any changes in living arrangements or resources. One copy of this letter will be maintained in the child's record; the other copy will be given to the parents/child/guardian. If the parents refuse this coverage, the worker must document the refusal in CCWIS under the medical insurance screen.

The Department will automatically notify the parent prior to the end of the coverage period and termination of coverage. The parents have the right to appeal any decision.

#### **12.6 Chafee Education and Training Vouchers (ETV)**

As a result of Congressional legislation that re-authorized the Independent Living Program, re-titled Chafee Foster Care Independence Program, funding has been made available to states to assist with the costs of higher education or vocational training for youth who were adopted from

foster care after the age of 16 years, youth who have aged out of foster care, and youth who are placed in guardianship. Youth who meet any of these criteria are eligible to receive educational assistance up to \$5,000 per calendar year. This money may be used to cover the costs of attending college or vocational training, including all expenses related to a course of study such as computers, special clothing, shoes or boots, books, housing transportation, etc.

The child's adoption worker must, when completing the Subsidy Agreement for a child over the age of 16 years, specify the child's right to this educational assistance (to the degree funds continue to be able) in an addendum to the Subsidy Agreement. This addendum must be signed by the adoptive parents and the Regional Director or designee.

The adopted child may apply for this assistance at any time prior to their 21st birthday. The ETV funding will continue to be available until age 23 for youth who are enrolled and making satisfactory progress in an educational or vocational program on their 21st birthday. The Adoption Assistance Program Specialist must review and approve the request, determine if a new vendor number is needed and, if so, obtain the W9 and request the Bureau's Division of Administration open the new vendor in CCWIS. The Adoption Assistance Program Specialist is also responsible for obtaining the youth's education plan, for obtaining and approving invoices for payment, and for forwarding those invoices to the Bureau's Division of Administration for payment processing. The Adoption Assistance Program Specialist will provide the Chafee program manager the name of the individuals and the amount of all payments and approvals.

### **12.7 Social Security Income and Pension Benefits**

If there is a possibility the child might qualify for SSI, the adoption worker must work with the Health Check and the Social Security Office to secure benefits prior to the filing of the petition for adoption. Continued eligibility after adoption will depend on the adoptive parents' income; however, establishing this SSI eligibility will qualify the child for adoption assistance IV-E eligibility and help the child reestablish the benefit, if needed, as an adult.

If one or both birth parents are deceased, the adoption worker must explore the possibility of dependent benefits from such pensions as Social Security, Veterans Administration, Railroad Retirement, Black Lung, United Mine Workers, etc. Once established, the child will continue to be eligible for these benefits once adopted.

### **12.8 Medley at Risk**

If the child meets the criteria of a Medley at Risk child due to severe intellectual disability or a combination of intellectual disability and a mental illness or an incapacitating physical disability, the adoption worker should refer the child to the Medley program during the trial adoption period. Some of these services may be available after adoption.

The child could also be eligible for either a Medicaid personal care service or Title XIX waiver service and family support. These programs offer the adoptive parents ongoing service such as case management, personal care, in-home nursing level care, respite, medical equipment, home modification, etc.



### **12.9 Children with Special Health Care Needs Program**

If the child has a congenital defect, the adoption worker must work with the EPSDT provider for referral to the Children with Special Health Care Needs Program. This program provides specialized, medical and surgical coverage, nutritional supplements, braces, orthopedic shoes, etc. Once approved, the child will remain eligible for these services after adoption until age 21.

### **12.10 WV Vocational Rehabilitation**

If a child, age 16 or above, has a physical or mental disability, they should be referred to the West Virginia Vocational Rehabilitation Program by their public-school counselor. (This includes children diagnosed with ADHD.)

### **12.11 Reviews/Records**

Reviews will be conducted periodically by the Adoption Assistance Program Specialist located in the State office. All final adoption records and state ward records will be archived in the State office.

### **12.12 Appeals/Fair Hearing**

Adoptive parents or prospective adoptive parents may appeal any decision that affects their adoption subsidy. If the family's request is denied or if the subsidy is discontinued for any reason other than required by law the family may request a hearing in the county of their choice. This request must be in writing to the Bureau for Social Services and received within 90 days of the denial for adoption assistance.

If a request for Adoption Preservation services is denied, it will be the service provider's responsibility to appeal this decision. If the denial continues to be upheld by the WVDHHR Review Committee, the adoptive parent may then request a fair hearing to review their request for services.

## **SECTION 13 – POST FINILIZATION**

### **13.1 Adoption Preservation Services**

Adoption Preservation Services will be offered to families of post-finalized adoptive children from WV DHHR foster care, from private adoptions and international adoptions in order to preserve an adoption that may be at risk of disruption or dissolution. Services are offered through the Administrative Service Organization system.

In addition to services offered through the ASO, many counties also offer Foster/Adopt Support Groups and pairing of new adoptive families with more tenured families for support and advice.

### **13.2 Archiving of State Ward Records**

The Bureau for Social Services /Adoption Unit shall be responsible for the archiving of the State Ward records of children who have been adopted from the Public Welfare/Foster Care. Upon finalization, the Adoption Worker will have all material filed in the child's state ward record and

will forward it to the Adoption Assistance Program Specialist for archiving for 99 years. The Adoption Assistance Program Specialist will be responsible for maintaining a cross reference archive index of adoption cases.

The Bureau for Social Services maintains an adoptive file on all children who receive adoption assistance until the child reaches the age of twenty-one, at which time the record will be forwarded to be filed with State Ward records.

### **13.3 Non-identifying Information**

During the adoptive process, the Adoption Worker will provide the adoptive parent with all non-identifying information known to the department regarding the social, medical, or genetic history of the child and the birth family. The adoptive parent or the adult adoptee may submit a request to the Bureau for Social Services or to the clerk of the circuit court to solicit copies of non-identifying information contained in the state ward record or in the sealed adoptive court record. Either birth parent may also submit additional social, medical, or genetic history for the adoptee. This information will be placed in the adoptive file and shared with the adoptive parents upon receipt or with the adult adoptee upon request.

### **13.4 Mutual Consent Adoption Registry**

The purpose of this registry is to provide a centralized location wherein birth parents and the adult adoptee may register their willingness to have their identity and whereabouts disclosed and to provide for the disclosure of such information provided each individual voluntarily registers. The information placed in the child's adoptive record will only be available upon request of an eligible person after the child and all siblings in an adoptive placement have reached the age of eighteen or upon court order for good cause shown.

The adoption record shall be added to the archived State Ward record upon the closure of the CCWIS case after their twenty-first birthday.

The initial registration request may be via phone or letter to the Mutual Consent Registry, Bureau for Social Services, Children & Adult Services, 350 Capitol Street, Room 691, Charleston, WV 25301. Telephone: 304.558.7980.

Upon receipt of request, BSS staff will forward a Registry Inquiry Form to be completed by the applicant with notarized signature and returned with proof of the applicant's identity (photo ID and birth certificate and social security card). A file will be maintained on each registrant for a period of 10 years.

Upon registering, the applicant will participate in not less than one hour of counseling with a social worker or social service worker employed by the Department's registry. If a birth parent or adult adoptee resides outside the state, the Department will obtain counseling from a social worker employed by a licensed agency in that state.

### **13.5 Adoption Dissolutions/Re-adoption**

In the event that a child is removed or relinquished from an adoptive home or other permanent placement after the case has been dismissed from the court's docket, any party with knowledge of this, as well as the agency receiving custody of the child, shall promptly report the matter to the circuit court of origin, the Department and the child's counsel. The Department shall convene an MDT meeting within thirty (30) days of the receipt of notice of permanent placement disruption. The court shall schedule a permanency hearing within sixty (60) days of the report to the circuit court of the disruption. Notice will be given to appropriate parties and those entitled to notice and the right to be heard.

In the case of a disrupted adoption, once the child is re-adopted the child will once again receive cash, medical or conditional subsidy.

In the event the adoptive parent dies and the adoptive parent had made previous arrangements for the care of their child, the subsequent parent is not required to complete a home study nor attend PRIDE training classes. If this individual subsequently adopts the youth and the youth had been receiving cash, medical or conditional subsidy, this will follow the youth to their new adoptive home. The new adoptive parent may also make application for non-recurring assistance and enter into an Adoption Subsidy Agreement prior to the re-adoption becoming final. An addendum to the initial agreement will be entered with the new adoptive parent.

### **13.6 Adoptive Parent Separation/Divorce**

If adoptive parents obtain a legal separation or divorce, the custodial parent shall promptly report the matter to the Department. The custodial parent can contact the Department by phone at (304) 352-4429 or by email at [adoptionsubsidy@wv.gov](mailto:adoptionsubsidy@wv.gov). The Department will request documentation in the form of a court order from the divorce proceedings or child custody proceedings. The family court order should address and name the custodial parent. Adoption subsidy and the medical card shall follow the child which may include splitting the subsidy 50/50 if joint custody is ordered. In addition to the court order, the custodial parent will complete and return a signed W-9 form to the Department.

### **13.7 Grievance Process/Fair Hearings**

The Adoptive Parents may appeal the Agency's decisions to reduce, change or terminate adoption assistance in accordance with rules and procedures of the State's fair hearing and appeal process.

### **13.8 Adoptive Parents Rights**

Once an adoption is finalized, any previous parent or guardian is no longer entitled to parental rights over the child. Adoptive parents have the same rights and privileges concerning the adopted child that biological parents have. This includes the right to make decisions concerning the care, custody, and control of the child. An adoptive parent merely allowing a child to be around a former parent or caregiver that was prohibited from having contact with the child in a prior court order is not grounds for a finding of abuse and neglect. There must be evidence of a safety threat or that maltreatment is occurring as a result of an adoptive parent's decision(s).

There are circumstances that do affect the rights of adoptive parents. These include:

- When a child is adopted, any pre-existing order granting a grandparent visitation with that child is rendered void *unless* the adoptive parent is a relative of the child in which case the visitation order will remain in effect.<sup>1</sup>
- Any orders granting a child the right to visitation with their siblings remain in effect post-adoption.

### 13.9 Crime Victim's Compensation Fund

A child or youth who is identified in a civil abuse and neglect case may be entitled to benefits from the Crime Victim's Compensation Fund. For additional information, see Foster Care Policy 7.1 and [W. Va. Code §14-2A-11a](#).

The Department may share information with the West Virginia Crime Victim's Compensation Fund ([W. Va. Code §49-5-101](#)), to review allegations of injurious conduct committed against a child with child welfare involvement and, if appropriate, to make a determination for award of benefits to the victims. For further information on when and how the Crime Victim's Compensation Fund should be utilized see Foster Care Policy 7.1.

## SECTION 14- Nondiscrimination, Grievance Procedure & Due Process Standards, Reasonable Modification Policies, and Confidentiality

### 14.1 Nondiscrimination

As a recipient of Federal financial assistance, the Bureau for Social Services (BSS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by BSS directly or through a contractor or any other entity with which BSS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin) ("Title VI"), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability) ("Section 504"), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age) ("Age Act"), regulations of the

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<sup>1</sup> See W. Va. Code §48-10-902; see also See *In Re Adoption of J.S.*, 858 S.E.2d 214 at 221 n.15 (2021)

U.S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

The Bureau for Social Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

In addition, BSS will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all BSS programs, services, and activities. For example, individuals with service animals are welcomed in Department of Health and Human Resources, BSS, offices even where pets are generally prohibited.

In case of questions, or to request an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a BSS program, service, or activity, please contact:

Children and Adult Services  
Section 504/ADA Coordinator  
350 Capitol St. Rm 691  
Charleston, WV 25301  
(304) 352-4429

## 14.2 Non-Discriminatory Placement Protocol

The Department ensures that all parties involved in child welfare programs have equal opportunities. All potential placement providers for children and youth, are afforded equal opportunities, free from discrimination and protected under the [American's with Disabilities Act](#) (ADA). The Department will not deny a potential placement provider the benefit of its services, programs, or activities due to a disability.

Under the American's with Disabilities Act it defines a person with a disability as:

“An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”

The ADA does not specifically name all the impairments that are covered. The ADA does not allow a person to be discriminated against due to a disability in employment, state and local government activities, public transportation accommodations, telecommunication relay services, fair

housing, air carrier access, voting accessibility or education. Examples of disabilities include physical disabilities which require auxiliary aides and mental health issues. Those persons with substance use disorders, including opioid use disorder, currently participating in a treatment option such as Medication Assisted Treatment (MAT), are also covered by the ADA. Participation in a MAT program is not considered the illegal use of drugs. Qualifying MAT programs are defined in [W. Va. Code §16-5Y-1](#), *et seq.* The ADA also addresses the civil rights of institutionalized people and architectural barriers that impact people with disabilities.

When making diligent efforts to locate and secure appropriate placement for foster children and youths, a worker cannot discriminate against a potential placement based upon a person with a disability according to the American's with Disabilities Act (ADA) Title II. The Department shall determine if the potential placement for the child represents a direct threat to the safety of the child. Safety threat decisions will be based on assessment of the individual and the needs of the child, as the safety of the child always remains at the forefront of the determination of the best interest of a child, when placing a child in anyone's home. This determination cannot be based on generalizations or stereotypes of individuals.

If a provider protected under the ADA is identified as an appropriate and best interest placement for a foster child they may, at some point, require services specific to their disability in order to preserve the placement. In such situations, consideration for services must be given if it is in the best interest of the child to preserve the placement. Any specific auxiliary aids or services should be determined by the child welfare worker at no cost to the provider and should be considered on a case-by-case basis.

### **14.3 Complaint Procedure and Due Process Standards**

#### **A: Complaints Based on Disability or other Forms of Discrimination**

It is the policy of the West Virginia Department of Health and Human Resources (DHHR), not to discriminate on the basis of on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed. DHHR has adopted an internal complaint procedure providing for prompt, equitable resolution of complaints alleging discrimination. Laws and Regulations, 28 C.F.R. Part 35 and 45 C.F.R. Part 84, may be examined by visiting <https://www.ada.gov/reg3a.html>. Additional laws and regulations protecting individuals from discrimination in child welfare programs and activities may be examined by visiting the U.S. Department of Health and Human Services website at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/adoption/index.html>.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed may file a complaint under this procedure. It is against the law for the Bureau for Social Services,

(including employees, contracted providers, or other BSS representative,) to retaliate in any way against anyone who files a complaint or cooperates in the investigation of a complaint.

### Procedure

Complaints due to alleged discriminatory actions must be submitted to the Department of Health and Human Resources, Equal Employment Opportunity (EEO)/Civil Rights Officer within sixty (60) calendar days of the date the person filing the complaint becomes aware of the alleged discriminatory action.

The complainant may make a complaint in person, by telephone, by mail, or by email. To file the complaint by mail or email, a Civil Rights Discrimination Complaint Form, IG-CR-3 (See Appendix A) must be completed and mailed or emailed to the West Virginia Department of Health and Human Resources, Office of Human Resources Management, EEO/Civil Rights Officer, One Davis Square, Suite 400, Charleston, WV 25301 or email at [DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov). If the complainant requires assistance completing the IG-CR-3 form, they may request assistance from the Department. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought. The complainant may also contact the WV DHHR, EEO/Civil Rights Officer, for more information.

West Virginia Department of Health and Human Resources  
Office of Human Resource Management  
EEO/Civil Rights Officer  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov) (email)

The EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The EEO/Civil Rights Officer will maintain the files and records of Bureau for Social Services relating to such complaints. To the extent possible, and in accordance with applicable law, the EEO/Civil Rights Officer will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

The EEO/Civil Rights Officer shall issue a written decision on the complaint, based on the preponderance of the evidence, no later than thirty (30) calendar days after its filing, including a notice to complainant of their right to pursue further administrative or legal remedies. If the EEO/Civil Rights Officer documents exigent circumstances requiring additional time to issue a decision, the EEO/Civil Rights Officer will notify the complainant and advise them of their right to pursue further administrative or legal remedies at that time while the decision is pending. The person filing the complaint may appeal the decision of the EEO/Civil Rights Officer by writing to

the Director of Human Resources within fifteen (15) calendar days of receiving the EEO/Civil Rights Officer's decision. The Director of Human Resources shall issue a written decision in response to the appeal no later thirty (30) calendar days after its filing.

The person filing the complaint retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources.

The availability and use of this procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in court or with the US Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint portal at: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> or by mail or by phone at:

U.S. Department of Health & Human Services  
Office for Civil Rights  
200 Independence Ave., S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201  
800-368-1019 (voice) 800-537-7697 (TDD)  
[OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov)

For complaints to the Office for Civil Rights, complaint forms are available at: <https://www.hhs.gov/ocr/complaints/index.html>. Complaints shall be filed within one hundred and eighty (180) calendar days of the date of the alleged discrimination.

The Bureau for Social Services will make appropriate arrangements to ensure that individuals with disabilities and individuals with Limited English Proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed, to participate in this process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing recorded material for individuals with low vision, or assuring a barrier-free location for the proceedings. The EEO/Civil Rights Officer will be responsible for such arrangements.

#### **B: Grievances Regarding the Adoption Specialist or Casework Process**

At any time that the Bureau for Social Services is involved with a client, the client (adult or child), or the counsel for the child has a right to express a concern about the manner in which they are treated, including the services they are or are not permitted to receive.



Whenever a parent, child or counsel for the parent or child has a complaint about Adoption or expresses dissatisfaction with Adoption the worker will:

- Explain to the client the reasons for the action taken or the position of the BSS which may have resulted in the dissatisfaction of the client.
- If the situation cannot be resolved, explain to the client their right to a meeting with the supervisor.
- Assist in arranging for a meeting with the supervisor.

The supervisor will:

- Review all reports, records, and documentation relevant to the situation.
- Determine whether all actions taken were within the boundaries of the law, policies, and guidelines for practice.
- Meet with the client.
- If the problem cannot be resolved, provide the client with the form “Client and Provider Hearing Request”, SS-28.
- Assist the client with completing the SS-28, if requested.
- Submit the form immediately to the Chairman, State Board of Review, DHHR, Building 6, Capitol Complex, Charleston, WV 25305.

For more information on Grievance Procedures for Social Services please see Common Chapters Manual, Chapter 700, and Subpart B or see W.Va. Code §29A-5-1.

Note: Some issues such as the decisions of the Circuit Court cannot be addressed through the Grievance Process. Concerns about or dissatisfactions with the decisions of the Court including any approved Case plan must be addressed through the appropriate legal channels.

#### **14.4 Reasonable Modification Policy**

##### **A: Purpose**

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), the Bureau for Social Services shall not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The BSS shall make reasonable modifications in Adoption program policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

##### **B: Policy**

DHHR is prohibited from establishing policies and practices that categorically limit or exclude qualified individuals with disabilities from participating in the BSS Adoption program.

The Bureau for Social Services will not exclude any individual with a disability from the full and equal enjoyment of its services, programs, or activities, unless the individual poses a direct threat to the health or safety of themselves or others, that cannot be mitigated by reasonable modifications of policies, practices, or procedures, or by the provision of auxiliary aids or services.

The Bureau for Social Services is prohibited from making Adoption program application and retention decisions based on unfounded stereotypes about what individuals with disabilities can do, or how much assistance they may require. The BSS will conduct individualized assessments of qualified individuals with disabilities before making Adoption application and retention decisions.

The Bureau for Social Services may ask for information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability and need for the modification are not readily apparent or known. BSS will confidentially maintain the medical records or other health information of Adoption program applicants and participants.

The Bureau for Social Services upon request, will make reasonable modifications for qualified Adoption program applicants or participants with disabilities unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. Individuals do not need to reference Section 504 or Title II or use terms of art such as “reasonable modification” in order to make a request. Further, BSS staff are obligated to offer such reasonable accommodations upon the identification of a qualifying disability or to an individual with Limited English Proficiency.

BSS must consider, on a case-by-case basis, individual requests for reasonable modifications in its Adoption program, including, but not limited to, requests for substitute caregivers, respite caregivers, more frequent support from a case worker, additional classroom and/or online training, mentorship with an experienced foster/adoptive parent, note takers, and other auxiliary aids and services. When auxiliary aids or language interpretation services to ensure effective communication for individuals with hearing, vision, speech impairments, or Limited English Proficiency (LEP) are needed, they shall be provided to the participant at no additional costs. DHHR evaluates individuals on a case-by-case basis to provide auxiliary aids and services as necessary to obtain effective communication. This would include but not be limited to:

- Services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments.
- And qualified readers, taped texts, and Brailled or large print materials for individuals with vision impairments.

- Access to language and interpretation services.

For more information on obtaining auxiliary aids, contact:

Center for Excellence in Disabilities (CED)

959 Hartman Run Road

Morgantown, WV 26505

Phone: 304-293-4692.

Toll Free: (888) 829-9426

TTY: (800) 518- 1448

For language translation and interpretation services Adoption Specialists may Contact 911 Interpreters or the Section 504/ADA Coordinator (see also section 11.5 Limited English Proficiency).

To contact 911 Interpreters, utilize the information below:

911 Interpreters Inc.

1-855-670-2500

BSS Code: 25646

When requesting language translation services directly through 911 Interpreters, staff must report the accommodation to the Section 504/ADA Coordinator by completing the *Reasonable Accommodation Reporting Form*.

The Bureau for Social Services will not place a surcharge on a particular qualified individual with a disability or any group of qualified individuals with disabilities to cover the cost of measures, such as the provision of auxiliary aids and services or program accessibility, that are necessary to provide nondiscriminatory treatment required by Title II of the ADA and Section 504.

To address any violations of this Reasonable Modification Policy, consult the Bureau for Social Services Grievance Procedure. To request reasonable modifications, or if you have questions, please contact:

Children and Adult Services

Section 504/ADA Coordinator

350 Capitol St. Rm 691

Charleston, WV 25301

(304) 352-4429

[DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov) (email)

Staff who make reasonable accommodations for an individual must be reported to the Section 504/ADA Coordinator utilizing the *Reasonable Accommodation Reporting Form*.

## 14.5 Limited English Proficiency

The Bureau for Social Services (BSS) will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs, and other benefits. The policy of BSS is to ensure meaningful communication with LEP clients and their authorized representatives involving their case. The policy also provides for communication of information contained in vital documents, including but not limited to, information release consents, service plans, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of contracted vendors, technology, or telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in the effective use of an interpreter and the effective use of technology including telephonic interpretation services. The Bureau for Social Services will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

### PROCEDURES:

#### 1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE

The Bureau for Social Services will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards,” available online at [www.lep.gov](http://www.lep.gov) or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

#### 2. OBTAINING A QUALIFIED INTERPRETER

911 Interpreters Inc. has agreed to provide qualified interpreter services. The agency’s telephone number is 1-855-670-2500 (BSS Code: 25646). Interpretation services are available 24 hours a day. Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person’s file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, BSS will provide qualified interpreter services to the LEP person free of charge. Children and other clients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

### 3. PROVIDING WRITTEN TRANSLATIONS

When translation of vital documents is needed, BSS will submit documents for translation to 911 Translators Inc. or the Section 504/ADA Coordinator. BSS will generally provide language services in accordance with the following guidelines:

(a) BSS will provide written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent threshold in (a), BSS will not translate vital written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Additionally, when making a determination as to what languages services will be provided, BSS may consider the following factors: (1) the number and or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

### 4. PROVIDING NOTICE TO LEP PERSONS

The Bureau for Social Services will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in DHHR office lobbies and waiting areas. Notification will also be provided through one or more of the following: outreach documents and program brochures.

#### *5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION*

On an ongoing basis, BSS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, BSS will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

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### **Appendix A**

#### **DHHR Civil Rights Complaint Form**



## West Virginia Department of Health and Human Resources Civil Rights Discrimination Complaint Form

<b>Complainant First Name</b>		<b>Complainant Last Name</b>	
<b>Home Phone</b> <i>(include area code)</i>		<b>Work Phone</b> <i>(include area code)</i>	
<b>Street Address</b>		<b>City</b>	
<b>State</b>	<b>Zip Code</b>	<b>Email</b> <i>(if available)</i>	

Is this complaint being completed by someone other than the complainant?  Yes  No

If yes, please provide your information below:

<b>First Name</b>	<b>Last Name</b>	<b>Telephone Number</b> <i>(include area code)</i>
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The complainant feels they have been discriminated against on the basis of:

- Race/Color/National Origin   
  Religion/Creed   
  Sexual Orientation/Gender Identity  
 Disability   
  Age   
  Sex

Other *(please specify):*

Who or what bureau within the West Virginia Department of Health and Human Resources is believed to have been discriminatory?

<b>Name/Bureau/Office</b>		
<b>Street Address</b>	<b>City</b>	<b>County</b>
<b>Zip Code</b>	<b>Telephone</b>	

Date(s) discriminatory action is believed to have occurred:

Which program(s) is the complainant alleging the discriminatory action took place in?

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Child Welfare <i>(includes CPS, Youth Services, Foster Care, Adoption, Home Finding, and Legal Guardianship)</i> | <input type="checkbox"/> Adult Welfare <i>(includes APS, Guardianship, Health Care Surrogate, Residential Services Request to Receive and Request to Provide)</i> | <input type="checkbox"/> Low Income Energy Assistance Program (LIEAP) |
| <input type="checkbox"/> Temporary Assistance for Needy Families (TANF)   | <input type="checkbox"/> School Clothing Voucher  | <input type="checkbox"/> Indigent Burial                              |

*Complaints involving the Supplemental Nutrition Assistance Program (SNAP) must be sent directly to the U.S. Department of Agriculture. See below for more information.*

**Describe briefly what happened. How and why does the complainant believe they have been discriminated against? What is the relief or remedy sought by the complainant?**

*(Attach additional pages as needed.)*

Please sign and date this form. If submitting by email, you may type your name and date. Your email will represent your signature.

<b>Signature</b>	<b>Date (mm/dd/yyyy)</b>
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The West Virginia Department of Health and Human Resources shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. EEO/Civil Rights Officer will maintain the files and records of DHHR relating to such grievances. The EEO/Civil Rights Officer shall issue a written decision on the complaint no later than thirty (30) calendar days after its filing, unless the Coordinator documents exigent circumstances requiring additional time to issue a decision. To submit this complaint or request additional information, please contact:

West Virginia Department of Health and Human Resources  
Office of Human Resource Management  
EEO/Civil Rights Officer  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[DHHRCivilRights@WV.Gov](mailto:DHHRCivilRights@WV.Gov) (email)

The person filing the grievance retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources. The availability and use of this grievance procedure does not prevent a person from filing a private lawsuit in Federal court or a complaint of discrimination on the basis of being a member of a protected class, with the:

U.S. Department of Health & Human Services  
200 Independence Ave., S.W.  
Room 509F HHS Bldg.  
Washington, D.C. 20201  
800-368-1019 (voice)  
202-619-3818 (fax)  
800-537-7697 (TDD)  
[OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov) (email)

The complaint form may be found at <https://www.hhs.gov/ocr/complaints/index.html>

*For SNAP complaints, please contact the U.S. Department of Agriculture.*

*The USDA Program Discrimination Complaint Form, can be found online at: <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form by mail, email, or fax to:*

*U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW Washington, D.C. 20250-9410  
(202) 690-7442 (fax)  
(866) 632-9992 (telephone)  
[program.intake@usda.gov](mailto:program.intake@usda.gov) (email)*