

Title IV-E Eligibility Policy Manual

West Virginia Department of Health and Human Resources

Bureau for Children and Families

Office of Operations

Amy L. Hymes, Deputy Commissioner
Christie A. Fortney, Program Manager I
Rebecca A. Swartz, Program Manager I

Revised
October 2019

Table of Contents

Section 1	5
Introduction/Overview	5
1.1 Overview	5
1.2 Documentation for IV-E Determination	6
1.3 Definitions	6
Section 2	10
Title IV-E Foster Care Assistance: Children in DHHR Custody	10
2.1 Overview	10
2.2 Initial Determination Eligibility Criteria	10
2.2.1 Placement and Care Responsibility	11
2.2.2 Removals	11
Court Ordered Removals	12
<i>Contrary to the Welfare (CTW)</i>	13
<i>Reasonable Efforts to Prevent Removal</i>	14
Voluntary Placement	15
2.2.3 AFDC Eligibility	15
Age	16
Citizenship	16
Living with a Specified Relative	16
Deprivation of Parental Support or Care	17
Financial Need	18
<i>AFDC Family Unit</i>	20
<i>AFDC Eligibility Month</i>	20
<i>Resources</i>	21
<i>Income</i>	22
2.2.4 Minor Parents and Infants in Care	23
2.3 Ongoing Eligibility Criteria	23
2.3.1 Court Ordered Removals	23
Non-Qualifying Court Orders for REFPP	24
Interruptions in Foster Care	25
2.3.2 Voluntary Placement	25
Section 3	26

Title IV-E Adoption Assistance	26
3.1 Overview	26
3.2 Adoption Assistance Eligibility Criteria: Citizenship	26
3.3 Adoption Assistance Eligibility Criteria: Not Applicable Children	26
3.4 Adoption Assistance Eligibility Criteria: Applicable Children	28
Section 4	30
Title IV-E Kinship Relative Guardianship Assistance	30
4.1 Overview	30
4.2 Kinship Relative Guardianship Assistance Eligibility Criteria	30
Section 5	32
Escalated Age	32
5.1 Overview	32
5.2 Escalated Age Eligibility Criteria: Foster Care	32
5.3 Escalated Age Eligibility Criteria: Adoption	33
5.4 Escalated Age Eligibility Criteria: Legal Guardianship	34
Section 6	35
Title IV-E Foster Care Candidacy: Traditional and Prevention	35
6.1 Overview	35
6.2 Foster Care Candidacy: Traditional Candidates	36
6.2.1 Eligibility Criteria	36
6.2.2 Ongoing Eligibility Criteria	36
6.3 Foster Care Candidacy: Prevention Candidates	37
6.3.1 Eligibility Criteria	37
Prevention Plan Requirements	37
Age Requirements	38
6.3.2 Ongoing Eligibility Criteria	39
Section 7	40
Title IV-E Parental Substance Abuse Placement	40
7.1 Overview	40
7.2 Eligibility Criteria	40
Section 8	42
Title IV-E Qualified Residential Treatment Program Placement	42
8.1 Overview	42

8.2 Eligibility Criteria..... 42

Section 1

Introduction/Overview

1.1 Overview

Title IV-E of the Social Security Act is the largest federal funding stream for child welfare activities.

Prior to 1961, foster care was entirely a State responsibility. The federal foster care program was created to settle a dispute with the States over welfare payments to single-parent households. The federal Department of Health Education and Welfare, in what came to be known as the Flemming Rule, directed States to cease enforcement of the discriminatory suitable homes criteria unless households were unsafe for children. If homes were unsafe, States were required either to pay families Aid to Dependent Children while making efforts to improve home conditions or to place children in foster care. When States protested the added costs of protecting children in unsafe homes, Congress reacted by creating federal foster care funding. In this way, the federal government ensured States would not be disadvantaged financially by protecting children.

From 1961 to 1980, federal foster care funding was part of the federal welfare program, Aid to Families with Dependent Children (AFDC). In 1980, the Federal Adoption Assistance and Child Welfare Act (Public Law 96-272) created new sources of funding under title IV-E of the Social Security Act for placement of children from needy families. From 1980 through 1996, States could claim reimbursement for a portion of foster care expenditures on behalf of children removed from homes that were eligible for AFDC, so long as their placements in foster care met several procedural safeguards. States could also claim matching funds for adoption subsidies for parent(s) who adopted children with special needs who were either eligible for AFDC or Supplemental Security Income (SSI).

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193) created the Temporary Assistance for Needy Families (TANF) block grant to replace the AFDC Program. Although AFDC was repealed, the AFDC Program requirements that were in effect in West Virginia on July 16, 1996 remain in effect for Title IV-E eligibility determinations. States are reimbursed on an unlimited basis for the federal share of all eligible expenses.

The Deficit Reduction Act of 2005 (Public Law 109-171) permitted States to claim Federal reimbursement for allowable administrative costs for a potentially title IV-E eligible child who is at imminent risk of removal from the home if reasonable efforts are being made to prevent the removal of the child from the home, or, if necessary, to pursue the removal;

and the state agency has made, at least every six months, a determination or redetermination that the child remains at imminent risk of removal from the home.

In 2008, the Fostering Connections Act (Public Law 110-351) extended and expanded adoption incentives through FY 2013; created an option to provide kinship guardianship assistance payments; created an option to extend eligibility for title IV-E foster care, adoption assistance and kinship guardianship payments to age 21; and de-linked adoption assistance from AFDC eligibility.

The Bipartisan Budget Act of 2018 (Public Law 115-123) included the Family First Prevention Services Act (FFPSA), which amended the title IV-E foster care program to create new optional prevention funding under title IV-E, placed title IV-E payment limits on child care institutions, and reauthorized the Adoption Incentives Program.

1.2 Documentation for IV-E Determination

The information necessary for determining a child's eligibility for title IV-E assistance is to be gathered by the child's social worker and the IV-E Specialist. The primary sources of information are to be the child's family and existing Department records. Third party verification of information provided by the client is not required.

The child's social worker is responsible for documenting the child and family specific information necessary to make a title IV-E determination. The IV-E Specialist will contact the child's social worker to provide copies of additional information necessary for determination purposes, such as applications for emergency ratifications, emergency ratifications, petitions, court orders, and voluntary placement agreements.

The IV-E Specialist will maintain a working file containing work papers, notes, copies of documents, and all other information pertaining to the determination of child's IV-E eligibility. This working file is used to back-up and justify all decisions regarding title IV-E eligibility, which is particularly beneficial during audits and quality assurance reviews.

1.3 Definitions

AFDC family unit: A group of individuals whose income, resources, and needs are considered as a unit for purposes of determining AFDC eligibility.

Applicable child: A child whose eligibility for title IV-E adoption assistance is de-linked from AFDC eligibility.

Candidate for foster care- traditional: A child clearly identified and documented to be at serious risk of being removed from the home and placed in a foster care setting as evidenced by the Department either pursuing his or her removal from the home or making reasonable efforts to prevent such removal. The phrase “child who is a candidate for foster care” as defined in section 475(13) of the Social Security Act for the purposes of the title IV-E prevention program does not apply.

Candidate for foster care- prevention: As defined in section 475(13) of the Social Security Act, a child who is identified in a title IV-E prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care maintenance payments, title IV-E adoption assistance or title IV-E kinship guardianship assistance payments), but who can remain safely in the child's home or in a kinship placement as long as the title IV-E prevention services that are necessary to prevent the entry of the child into foster care are provided. This includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.

Constructive removal: A child for whom the Department has obtained legal responsibility but is residing with a related or non-related interim caretaker. The child was not removed from the interim caretaker but was constructively removed from the care and custody of a parent or legal guardian with whom the child had physically resided within the previous 6 months.

Dependent child: For AFDC purposes, a child in need who has been deprived of parental support or care, has been living with a parent or other specified relative in a place maintained as the home of the relative, and has not reached the maximum age designated for program eligibility.

Deprivation factor: For AFDC purposes, a situation that exists within a family that deprives a child of the care and support of one or both parents. Deprivation factors include absence, death, incapacity, or unemployment (or underemployment).

Foster care entry date: For IV-E review purposes, the date a child enters foster care is the earlier of 1. the date of the judicial finding of child abuse or neglect (typically is the result of an evidentiary hearing in which the court adjudicates or legally settles the allegation of child maltreatment); or 2. the date that is 60 calendar days after the date that the child is physically or constructively removed from the home. For the IV-E reviews, the sole purpose of ascertaining the date the child entered foster care is to calculate when the initial judicial determination that reasonable efforts are being made to finalize a permanency plan (REFPP) is due.

Foster care episode: A foster care episode begins at the point that the judicial finding of “contrary to the welfare” is made or the VPA is signed sanctioning the child’s removal from home, and continues for as long as that removal court order or voluntary placement

agreement remains in effect, even if the child is temporarily away from a title IV-E reimbursable placement setting.

Licensed residential family-based treatment facility for substance abuse: A facility that provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling in accordance with recognized principles of a trauma-informed approach. While these facilities are licensed, they are not child care institutions (CCI) as defined by section 472(c) of the Social Security Act. Therefore, they are not required to meet the title IV-E licensing and background check requirements for a CCI.

Non-applicable child: A child whose eligibility for title IV-E adoption assistance is linked to AFDC eligibility.

Qualified alien: For AFDC purposes, the term “qualified alien” includes aliens who are lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA), and certain refugees, asylees, individuals whose deportation has been withheld, Cuban or Haitian Entrants and Amerasian. It also includes certain aliens who have been paroled into the United States or who have been granted conditional entry and battered spouses and battered children.

Qualified residential treatment program (QRTP) placement: A specific category of a non-foster family home setting, for which the Department must meet detailed assessment, case planning, documentation, judicial determinations and ongoing review and permanency hearing requirements for a child to be placed in and continue to receive title IV-E foster care maintenance payments for the placement. The facility must also meet the definition of a childcare institution, including that it be licensed and that criminal record and child abuse and neglect registry checks must be completed. Further, it must be accredited by one of the independent, not-for-profit organizations specified in the statute or one approved by the US DHHS Secretary.

Relative: For the purposes of the placement of the children in WV, the Department defines kinship/relatives as any person related to the child by blood or marriage, including cousins and in-laws, and fictive kin (i.e. persons who the child considers a relative, such as a godparent or significant others whom the child claims as kin).

Specified Relative: For AFDC purposes, any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes natural or adoptive parents, blood relatives (including those of half-blood) who are within the fifth degree of kinship to the child, step relatives, and spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce. Relatives within the fifth degree of kinship include:

- 5th degree: Great-great-great grandparent; great-great aunt/uncle; great-great niece/nephew; or first cousin once removed (child of first cousin)

- 4th degree: Great-great grandparent; great aunt/uncle; great niece/nephew; or first cousin
- 3rd degree: Great grandparent; aunt/uncle; or niece/nephew
- 2nd degree: Grandparent or sibling
- 1st degree: Parent

Valid removal: For IV-E purposes, a removal in accordance with either 1. a voluntary placement agreement (VPA) that sanctions the physical or constructive removal of the child from the parent or legal guardian who signed the VPA; or 2. a judicial determination of “contrary to the welfare” (CTW) that sanctions the physical or constructive removal of the child from the parent or other relative whose home is the subject of the judicial findings of CTW. A removal is not valid if legal responsibility has been removed from the parent or specified relative and the child remains in the home under the responsibility of that same parent or relative. In judicial removals, the physical removal from that parent or specified relative must take place by the end of the next business day following the judicial determination of CTW, unless the court order expressly approves a specific duration for the delay of placement into foster care. (Extenuating circumstances related to the delay, such as a child who has run away or a child whose parent has absconded with the child, can be considered by the US DHHS AFC Children’s Bureau.)

Section 2

Title IV-E Foster Care Assistance: Children in DHHR Custody

2.1 Overview

Eligibility for Title IV-E is established at the time a child enters the care and custody of the Department. 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.

Title IV-E foster care maintenance payments may not be made on behalf of a child placed in a foster family home or childcare institution that is not fully licensed. Evidence must be provided verifying the safety requirements for caregivers of children placed in foster care.

Licensed residential family-based treatment facilities for substance abuse are not child care institutions. For information regarding eligibility for foster care maintenance payments during placement with the parent in a licensed residential family-based treatment facility for substance abuse, which is independent of a child's IV-E Eligibility Determination, see Section 7 of this policy.

2.2 Initial Determination Eligibility Criteria

For a child to be determined IV-E eligible for foster care maintenance payments:

- Responsibility for placement and care of the child must be vested with the Department
- The child must be removed in accordance with judicial determinations of “contrary to the welfare” and “reasonable efforts to prevent removal” or via a voluntary placement agreement (VPA)
- The child must meet AFDC eligibility criteria under the Title IV-A plan in effect on July 16, 1996

If the eligibility criterion of either “contrary to the welfare,” “reasonable efforts to prevent removal,” or AFDC is not satisfied initially as required, the child is ineligible for the entire foster care episode. The foster care episode begins at the point that the judicial finding

of “contrary to the welfare” is made or the VPA is signed sanctioning the child’s removal from home. That same foster care episode continues for as long as that removal court order or voluntary placement agreement remains in effect, even if the child is temporarily away from a title IV-E reimbursable placement setting.

For information regarding eligibility for foster care maintenance payments during placement with the parent in a licensed residential family-based treatment facility for substance abuse, which is independent of a child’s IV-E Eligibility Determination, see Section 7 of this policy.

2.2.1 Placement and Care Responsibility

“Placement and care” mean that the Department is legally accountable for the day-to-day care and protection of the child who has been placed in foster care through either the requisite judicial determination or a voluntary placement agreement. Placement and care responsibility allow the Department to make placement decisions about the child. It also ensures that the title IV-E agency provides the child with the mandated statutory and regulatory protections, including those in regard to case plans, administrative reviews, permanency hearings, and updated health and education records.

Placement and care are not the same as legal custody, although responsibility for placement and care generally is associated with legal custody. The Department need not be given legal custody of the child because legal custody by the Department or another public agency is not a requirement under title IV-E. Granting of legal custody or legal care and control to the Department can be an indication that the agency has responsibility for the placement and care of the child. Placement and care authority need not be granted to the Department at removal in order for the child to be considered validly removed under title IV-E. However, the child is not eligible under title IV-E until the “placement and care” requirement is met for the child who is otherwise eligible.

2.2.2 Removals

To be eligible for title IV-E funding, the child’s removal must be a valid removal. A valid removal is a removal in accordance with:

- a voluntary placement agreement (VPA) that sanctions the physical or constructive removal of the child from the parent or legal guardian who signed the voluntary placement agreement, or

- a judicial determination of “contrary to the welfare” (CTW) that sanctions the physical or constructive removal of the child from the parent or other relative whose home is the subject of the judicial findings of CTW

Physical removal is taking a child from his/her current place of residence and either placing the child in a substitute care setting or allowing the child to remain in a substitute care setting.

Constructive removal is when the Department has obtained legal responsibility for a child who is residing with a related or non-related interim caretaker. The child was not removed from the interim caretaker but was constructively removed from the care and custody of a parent or legal guardian with whom the child had physically resided within the previous 6 months.

A removal is not valid for title IV-E purposes when legal custody (i.e. placement and care responsibility) has been removed from the parent or specified relative in accordance with the Federal requirements and the child remains in the home under the responsibility of the same parent or relative. For title IV-E purposes, a physical removal of the child from the home of the parent or specified relative who is the subject of the CTW determination or who signs the VPA must take place for a valid removal.

In judicial removals, the Department’s action to physically remove the child from the home of the parent or specified relative must coincide with the judicial determination of CTW that results in the child’s removal, unless the court order specifies an alternative time frame for removal. If the physical removal from that parent or specified relative does not take place by the end of the next business day following the judicial determination and the court order does not expressly approve a specific duration for the delay of placement into foster care, the child is ineligible for title IV-E for the entire foster care episode. Extenuating circumstances related to the delay, such as a child who has run away or a child whose parent has absconded with the child, can be considered by the US DHHS AFC Children’s Bureau.

[Court Ordered Removals](#)

For court-ordered removals, there must be a judicial determination to the effect that it is contrary to the child’s welfare to remain in the home. Court-ordered removals also require judicial findings that the Department has made reasonable efforts to prevent the removal (or that reasonable efforts need not be made) and that the Department has made reasonable efforts to finalize a permanency plan. These judicial determinations must be documented in valid court orders. If an acceptable court order containing the requisite judicial determination is not furnished, an official transcript of that court proceeding is the only alternative to a

court order to substantiate that the judicial determination requirement is met satisfactorily.

For IV-E purposes, court orders must be:

- Explicit: Judicial finding is stated specifically and definitively. The finding is not implied;
- Child-specific: Judicial finding is made on a case-by-case basis and is specific to the child's circumstances;
- Valid: Judicial order conforms to governing statutes or policies for court procedures and types of court orders with respect to the Department; and
- Timely: Judicial finding conforms to Federal regulatory time frames

Examples of unacceptable court findings include:

- Judicial rulings that rely on a reference to statute but do not have the requisite "contrary to the welfare" or "reasonable efforts" findings;
- Affidavits;
- Nunc pro tunc orders;
- Amended orders that have "contrary to the welfare" or "reasonable efforts" findings that were not in the original order;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the "reasonable efforts" and "contrary to the welfare" findings to reasons of "Federal funding" purposes

Contrary to the Welfare (CTW)

A child's judicial removal from the home must be the result of a judicial determination to the effect that continuation of residence in the home is contrary to the child's welfare, or that placement in foster care is in the best interests of the child. The judicial determination regarding CTW must be made in the first court ruling (as evidenced by a court order or transcript of the court proceeding) that sanctions the Department's action to remove the child from the home. The initial removal order may be an emergency ratification, pick-up order, status offense, commitment, or detention. The order may sanction removal for placement in detention, Division of Juvenile Services facility, or other placement within or outside of the definition of foster care, with or without placement of custody or care responsibility with the Department. The trigger designating the action as one

requiring a judicial determination that it is in the best interest of the child to be removed from his/her home by this order, not the granting of placement and care responsibility with the Department.

The IV-E Specialist will determine which court order is the initial court order and whether it contains the required IV-E language. If the CTW criterion is not satisfied as required, the child is not eligible under title IV-E for the duration of the foster care episode.

There is no exact language that must be used in the judicial determinations to establish a CTW finding, if the words, combinations of words, or sentences convey the same meaning. Examples of language that establish a CTW finding include:

- Continuation in the home would be contrary to the welfare of the child
- In the child's best interest to be removed from home
- Child removed due to imminent danger in the home
- Child is a danger to him/herself

Reasonable Efforts to Prevent Removal

The judicial determination to the effect that reasonable efforts were made, or were not required, to prevent removal must be made no later than 60 days from the date the child is removed from the home. The Department may obtain this judicial determination earlier than 60 days from the date of removal. However, if the eligibility criterion is not satisfied within the 60-day time frame, the child is not eligible under title IV-E for the duration of the foster care episode. Examples of language that establish a reasonable efforts finding include:

- The court finds that the Department made reasonable efforts in trying to maintain the child in his/her own home
- The court finds that the Department is making reasonable efforts to safely return the child to his/her home
- Due to the emergency circumstances, efforts to prevent the removal of the child were not reasonable or possible
- The Department made reasonable efforts to prevent removal of the child
- Reasonable efforts not possible due to the existence of aggravated circumstances

Voluntary Placement

A voluntary placement is an out-of-home placement of a minor child by or with the participation of the Department, after the child's parents or legal guardians request the assistance of the agency and sign a voluntary placement agreement (VPA). For purposes of IV-E, a VPA is considered valid on the date that it is signed by the parent or legal guardian and the Department representative. If signings occur on different dates, the VPA becomes valid on the date of the final signature.

To be eligible for title IV-E, the legal guardian must be a specified relative and the child must be AFDC-eligible based on that specified relative's home (see section 2.2.3 of this policy regarding AFDC eligibility). For continuing eligibility of the child voluntarily placed, there must be a judicial determination within 180 days to the effect that the placement is in the best interests of the child. The "clock" for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If constructively removed, the "clock" for the first 180 days of the foster care episode begins the date the voluntary placement agreement is signed by all necessary parties.

2.2.3 AFDC Eligibility

Although Aid to Families with Dependent Children (AFDC) was repealed, the AFDC Program requirements that were in effect in West Virginia on July 16, 1996, remain in effect for Title IV-E eligibility determinations. There is no eligibility linkage between the AFDC program and the Temporary Assistance to Needy Families (TANF) program. Therefore, if a child is receiving WV Works assistance, this does not mean that the child is eligible for title IV-E funding. The AFDC regulations can be found in the 1996 WV Income Maintenance Manual, Chapters 8, 9, 10 and 11. Definitions can be found in Chapter 9, Section 9.2 AFDC/U Eligibility Determination Groups.

The Department uses an automated system to determine AFDC eligibility. In general, to meet the AFDC requirements the child must be determined to be a "dependent child." The term "dependent child" means a child in need who:

- has been deprived of parental support or care,
- has been living with a parent or other specified relative in a place maintained as the home of the relative, and
- has not reached the maximum age designated for program eligibility.

Age

In order to meet AFDC eligibility requirements, the child must be under the age of 18. When a child reaches his or her 18th birthday, eligibility for AFDC, and thus title IV-E, generally stops at the end of the month the child turns 18, with certain specified exceptions.

A child over age 18 may be eligible when the child:

- Is a full-time student in a secondary school, or the equivalent level of vocational or technical training, including summer breaks; and
- Can be reasonably expected to complete the program before reaching age 19

Graduation ceremonies need not take place prior to the child's 19th birthday. As long as all courses or training programs are fully completed prior to the child's 19th birthday, the child is eligible.

For information regarding how eligibility for title IV-E foster care payments can be extended to youth up to age 21 via Escalated Age, see Section 5 of this policy.

Citizenship

In order to meet AFDC eligibility requirements, the child must be a United States citizen or meet the definition of a qualified alien.

The term “qualified alien” includes aliens who are lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act, and certain refugees, asylees, individuals whose deportation has been withheld, Cuban or Haitian Entrants and Amerasian. It also includes certain aliens who have been paroled into the United States or who have been granted conditional entry and battered spouses and battered children.

Living with a Specified Relative

In order to meet AFDC eligibility requirements, the child must have been living with the specified relative from whom he/she was removed at some time within the 6 calendar months prior to the month in which a Voluntary Placement (VPA) was signed or court proceedings leading to the removal of the child from that home were initiated. A specified relative is defined as:

- **Natural or adoptive parents.** If a child is living with his natural father and paternity has been legally established, then the father is considered a specified relative. Adoption procedures must be finalized for an adoptive parent to qualify as a specified relative. When parental rights have been severed, but no adoption has been finalized, the parent is no longer a specified relative, but all other relationships of the child are unaffected.
- **Blood relatives, including those of half-blood, who are within the fifth degree of kinship to the child.** This includes:
 - 5th degree: Great-great-great grandparent; great-great aunt/uncle; great-great niece/nephew; or first cousin once removed (child of first cousin)
 - 4th degree: Great-great grandparent; great aunt/uncle; great niece/nephew; or first cousin
 - 3rd degree: Great grandparent; aunt/uncle; or niece/nephew
 - 2nd degree: Grandparent or sibling
 - 1st degree: Parent

A relative of the father of a child born out of wedlock can qualify as a specified relative only if the child's paternity has been established.

- **Step relatives, even after the marriage is terminated by death or divorce.** This includes stepfathers, stepmothers, stepbrothers, and stepsisters.
- **Spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.** This does not include spouses of step-relatives or spouses of former-stepparents.

Deprivation of Parental Support or Care

In order to meet AFDC eligibility requirements, the child must be deprived of parental support and care. Deprivation factors are situations that exist within a family that deprive a child of the care and support of one or both parents. For the AFDC program, deprivation factors include:

- **Absence.** One or both parents are physically absent from the home for any reason and the nature of the absence interrupts or terminates the parent's function as the provider for the child. An absent parent is one not residing in the primary home of the child in the month of the child is removed.
- **Death.** One or both parents are deceased.
- **Incapacity.** One or both parents are unable to provide care or support for the child because of physical disability or mental illness. The incapacity must be expected to last for a minimum of thirty (30) days and must substantially reduce or eliminate the parent's ability to support or care for the child. For IV-E purposes, evidence that a parent receives Social Security Disability (SSD or SSDI), Supplemental Security Income (SSI), or SSI-Related Medicaid is sufficient for establishing incapacity.
- **Unemployment (or underemployment) of the principal wage earner.** Both parents are in the home and the principal wage earner is unemployed. To meet the definition of unemployment, the parent must not have full-time employment, which is defined as working 100 hours per month or more. The principal wage earner is the parent who earned the greater amount of income in the previous 24 months.

Financial Need

In order to meet AFDC eligibility requirements, the child must be financially needy using criteria in effect as of July 16, 1996, in the title IV-A State plan. If the child would have been financially eligible for AFDC in 1996, the child will be financially eligible for title IV-E. The determination of financial need is based on the home from which there is a valid removal of the child. If the child is living with an interim caregiver at the time the child is judicially removed or voluntarily placed from the parent, the eligibility determination of financial need is based on the home of the parent, even when the child is physically removed from the interim caregiver.

Financial eligibility based on the income and resources available to the AFDC Family Unit during the AFDC Eligibility Month. Income and resources are considered available when the money or asset is accessible for use by an individual in the family unit. A child who has been determined to meet the initial AFDC eligibility requirements related to financial need is considered under title IV-E to meet the AFDC financial need requirements throughout the foster care episode, regardless of subsequent changes in income and resources. If the Social Security Administration has determined that a child is qualified to receive SSI and

the removal month is within the period of SSI eligibility, the child is considered to have met the AFDC financial need criteria for both income and resources.

Determining financial eligibility involves three computations:

1. Determining whether the AFDC family unit has resources in excess of the limit;
2. Performing the gross income test; and
3. Comparing the countable income to the State's standard.

In considering income to determine whether need exists for the AFDC family unit, the former AFDC program's two-step income test must be used:

1. **Gross Income Limitation:** After applying applicable disregards, the family's available gross income is measured against 185% of the State's AFDC standard of need for a family of the same size (see chart below). If the family's total income before application of certain earned income disregards exceeds 185% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program.
2. **Need Determination:** If the family's total available income is less than or equal to 185% of the AFDC need standard, additional allowable disregards are applied and the family's countable income is measured against 100% of the need standard, the same need standard used in step one. If the family's total available income exceeds 100% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program.

# of Persons in AFDC Family Unit	100% of AFDC Need Standard	185% of AFDC Need Standard
1	581	1,075
2	786	1,454
3	991	1,833
4	1,196	2,212
5	1,401	2,592
6	1,606	2,971
7	1,811	3,350
8	2,016	3,729
9	2,221	4,108
10	2,426	4,487
11	2,631	4,866
12	2,836	5,245
13	3,041	5,624
14	3,246	6,003
15	3,451	6,382
16	3,656	6,761

17	3,861	7,140
18	4,066	7,519
19	4,271	7,898
20	4,476	8,277

AFDC Family Unit

The AFDC family unit includes the child, the natural or adoptive parents of the child, and the minor, blood-related (or adoptive) siblings of the child who live in the same household as the child. Stepparents married to the natural or adoptive parent and in the same household as the child also must be included in the family income unit. Stepbrothers and stepsisters are not included. Certain other individuals who live in the same household as the child are excluded from the family unit because they are not eligible for the AFDC program due to other provisions of the Act. For example, individuals who are eligible to receive Supplemental Security Income (SSI) are not considered part of the assistance unit for determining financial need.

AFDC Eligibility Month

The AFDC eligibility month is either:

- the month the court proceeding leading to the requisite judicial determination is initiated through:
 - a removal petition or
 - removal court order; or
- the month the voluntary placement agreement is signed

The child must be eligible for AFDC in the removal home in the month of, but prior to, the child's removal from that home. Therefore, the child's household circumstances that exist prior to the day of the child's removal are considered. Any familial or economic changes that occur after the child's removal may not be considered.

If the removal occurs in the same month as the removal petition or the voluntary placement agreement, only the circumstances in the child's home prior to the removal can be considered in determining the child's AFDC eligibility for that month. For example, if the child is placed in foster care on 11/5 with a removal

court order of “contrary to the welfare” on the same date and the removal petition is filed on 11/17, the determination is based on the AFDC household’s circumstances during November 1-5.

If the removal does not take place until the following month, the AFDC determination must be based on the circumstances in the child's home (meaning the AFDC removal home) for the entire month in which the court proceedings were initiated or the voluntary placement agreement was signed. For example, if the child is placed in foster care on 12/5 with a removal court order of “contrary to the welfare” on the same date and the removal petition is filed on 11/17, the determination is based on the AFDC household’s circumstances during November 1-30.

Resources

For AFDC purposes, a family’s total amount of countable assets cannot exceed \$10,000. Assets include the total real and personal property an individual has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid. Liquid assets are cash or payable in cash on demand, including financial instruments that can be converted to cash. Non-liquid assets are those which can be converted or sold for cash. In order to be considered an asset, the asset must be owned by or available to the client and available for disposition. Money that is counted as income when received becomes an asset if retained into the month after receipt.

A family’s homestead property is excluded as an asset. Also, one vehicle is excluded, provided the equity does not exceed \$1,500. When the equity is greater than \$1,500, the excess amount is an asset.

Countable assets include:

- Bank accounts and CD’s
- Burial plots (*excluding one burial plot per benefit group member*)
- US savings bonds
- Business and non-business personal property
- Cash on hand/ cash savings (*excluding the current month’s income*)
- Collections (*goods and personal effects of unusual value such as, but no limited to, expensive china, silver, art work, antiques, or gun and coin collections*)
- Equipment essential for employment
- Income tax refunds
- Life insurance (*cash surrender value*)

- Non-educational loans
- Educational grants, loans, and scholarships (*when not used for their intended purpose or allowed to accumulate beyond the time they were intended to cover*)
- Mutual funds
- Pass accounts
- Individual Retirement Accounts (IRA's) and funds held in KEOGH plans
- Non-homestead property
- Real property related to vehicle maintenance
- Recreational equipment (*except when the individual lives in the recreational equipment*)
- Stocks
- Above ground swimming pools
- Trust funds (*to the extent that it is available to the individual or for his/her benefit*)
- Uniform gifts to minors act funds
- Equity of all vehicles (*minus \$1,500 from the one with the highest equity*)

Income

For AFDC purposes, a family's total income includes earned income and unearned income. Earned income is income which is derived, at least in part, from physical or mental activity on the part of an individual. Earnings include gross income from employment and gross profit from self-employment. Unearned income is income which is not related, or only indirectly related, to the efforts or activities of the individual. Examples of unearned income are RSDI, SSI, Veteran's benefits, pensions, compensation benefits, interest, royalties, allotments, and contributions. Regardless of the source, irregular income is excluded, because it cannot be anticipated. Income intended for the client but received by another person for whom he does not live, when the individual receiving this income refuses to make it available, is excluded.

For earned income, the following disregards and deductions are applied:

- A standard deduction of \$90 for work expenses
- A dependent care deduction of up to \$200 for dependents under age 2 and up to \$175 for dependents age 2 or over when the employed benefit group member or sanctioned parent must pay for dependent child or incapacitated adult care to accept or continue employment or training

For unearned income, the only disregard or deduction is the first \$50 of child support received.

For income derived from short-term seasonal self-employment, the income must be averaged over the period of time it is intended to cover, even if it is the major source of income for the year. However, if the averaged amount of past income does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the income is calculated based on anticipated earnings.

2.2.4 Minor Parents and Infants in Care

If a child of a minor parent in foster care is placed with the minor parent, the Department is required to make foster care maintenance payments for the minor parent in foster care to cover the child, regardless of whether responsibility for placement and care of the child is vested with the Department.

When the Department does not have responsibility for placement and care of the child, the Department increases the amount of the title IV-E foster care maintenance payment made on behalf of the eligible minor parent to accommodate the board and care of the child. Since the child is not eligible for nor a recipient of title IV-E foster care maintenance payments, no administrative costs may be claimed on his/her behalf. If the minor parent leaves the foster home and does not take the child, the child's eligibility for foster care would be based upon his/her individual circumstances.

When the Department has responsibility for placement and care of both the minor parent and the child, title IV-E eligibility must be determined individually for each.

2.3 Ongoing Eligibility Criteria

After a child has been determined IV-E eligible, a IV-E redetermination must be conducted at least every twelve months to determine whether the child continues to meet all IV-E criteria to receive ongoing IV-E reimbursement. The review period for a IV-E redetermination is prospective for the upcoming year.

Title IV-E eligibility may fluctuate from month to month. Therefore, during the redetermination, information from the previous redetermination period is also reviewed for errors in the eligibility status.

2.3.1 Court Ordered Removals

To remain eligible for title IV-E payments, there must be a yearly judicial determination that reasonable efforts are being made to finalize a permanency plan (REFPP) for the

child. The timing for securing the initial determination of REFPP is no later than 12 months from the date the child is considered to have entered foster care. Subsequent judicial determinations of REFPP must occur at regular 12-month intervals and no later than 12 months from the month in which the prior determination is obtained. (Calculation of the 12-month period is based on calendar months and is not counted from date to date). For IV-E review purposes, the date the child enters foster care is the earlier of:

- the date of the judicial finding of child abuse or neglect (typically is the result of an evidentiary hearing in which the court adjudicates or legally settles the allegation of child maltreatment); or
- the date that is 60 calendar days after the date that the child is physically or constructively removed from the home

For the IV-E reviews, the sole purpose of ascertaining the date the child entered foster care is to calculate when the initial judicial determination of REFPP is due. As title IV-E agencies may use an earlier date to start the “clock” to determine when the initial judicial determination is due, the Department uses the date of the child’s physical removal from the home.

Although the permanency hearing may serve as the mechanism for obtaining the judicial determination of reasonable efforts to finalize/achieve a permanency plan, there is no requirement that the judicial determination be made at a permanency hearing. The court may make such a judicial determination, based upon evidence presented to it by the Department, without a formal hearing.

Non-Qualifying Court Orders for REFPP

The following types of court orders are not acceptable for determining REFPP:

- Judicial rulings that rely on a reference to statute but do not have the requisite REFPP findings;
- Affidavits;
- Nunc pro tunc orders;
- Amended orders that have REFPP findings that were not in the original order;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the REFPP findings to reasons of “Federal funding” purposes

Interruptions in Foster Care

Unless the child returns home and a new removal episode takes place, the 12-month clock for a judicial determination of REFPP continues during interruptions in foster care, such as placement in a secure correctional facility, detention facility, or hospital.

2.3.2 Voluntary Placement

For children who enter care via a voluntary placement agreement (VPA) to remain eligible for title IV-E foster care assistance, there must be a judicial determination within 180 days to the effect that the placement is in the best interests of the child. The “clock” for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If constructively removed, the “clock” for the first 180 days of the foster care episode begins the date the voluntary placement agreement is signed by all necessary parties.

A judicial determination that reasonable efforts are being made to finalize a permanency plan (REFPP) is not required for children who enter care via a VPA.

Section 3

Title IV-E Adoption Assistance

3.1 Overview

Title IV-E Subsidized Adoption Assistance is financial and medical support provided to families who adopt a difficult to place child because of the child's special needs and assures these children will not remain in foster care for financial reasons alone.

The Federal Adoption Assistance and Child Welfare Act of 1980 provided matching funds for adoption subsidies for parent(s) who adopted children with special needs who were either eligible for AFDC or Supplemental Security Income (SSI). These children are considered "not applicable children."

The Federal Fostering Connections to Success and Increasing Adoptions Act of 2008 de-linked adoption assistance from AFDC eligibility for certain foster children beginning October 1, 2009 and was to cover all foster children by October 1, 2017. These children are considered "applicable children."

The Bipartisan Budget Act of 2018, which included the Family First Prevention Services Act (FFPSA), delayed the full implementation of the adoption assistance de-link provisions until June 30, 2024. From January 1, 2018 until June 30, 2024, the "applicable child" requirements can only be applied to children who will reach at least age two by the end of the fiscal year in which their adoption assistance agreement was entered. For children who will not reach age two by the end of the fiscal year in which the adoption assistance agreement is entered, the child's eligibility for the title IV-E adoptions assistance must be determined using the "not an applicable child" criteria.

3.2 Adoption Assistance Eligibility Criteria: Citizenship

Children who have special needs but who are not citizens or residents of the U.S. and were either adopted in another country or brought to this country for the purposes of adoption are categorically ineligible for adoption assistance, except if the child meets the eligibility criteria after the disruption of the international adoption.

3.3 Adoption Assistance Eligibility Criteria: Not Applicable Children

There are four ways that a non-applicable child can be eligible for title IV-E adoption assistance:

1. Child is eligible for AFDC and meets the definition of a child with special needs

Adoption assistance eligibility that is based on a child's AFDC eligibility is predicated on a child meeting the criteria for such at the time of removal. In addition, the child must meet the definition of a child with special needs prior to finalization of the adoption.

If the child is removed from the home pursuant to a judicial determination, the determination must indicate that it was contrary to the child's welfare to remain in the home. If the child is removed from the home pursuant to a voluntary placement agreement, that child must receive title IV-E foster care payments to be eligible for title IV-E adoption assistance. Children placed pursuant to a voluntary placement agreement under which a title IV-E foster care maintenance payment is not made are not eligible to receive title IV-E adoption assistance.

2. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs

A child is eligible for adoption assistance if the child meets the requirements for title XVI SSI benefits and is determined to be a child with special needs prior to the finalization of the adoption. Only a designated Social Security Administration claims representative can determine SSI eligibility and provide the appropriate eligibility documentation.

There are no additional criteria that a child must meet to be eligible for title IV-E adoption assistance when eligibility is based on a special needs child meeting SSI requirements. Specifically, how a child is removed from his or her home or whether the State has responsibility for the child's placement and care is irrelevant in this situation.

3. Child is eligible as a child of a minor parent and meets the definition of a child with special needs

A child is eligible for title IV-E adoption assistance in this circumstance if:

- prior to the finalization of the adoption, the child's parent was in foster care and received a title IV-E foster care maintenance payment that covered both the minor parent and the child of the minor parent, and
- the child of the minor parent is determined to meet the definition of a child with special needs

There are no additional criteria that must be met in order for a child to be eligible for title IV-E adoption assistance if the child's eligibility is based on his or her minor parent's receipt of a foster care maintenance payment while placed with the minor parent in foster care. As with SSI, there is no requirement that a child must have been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination.

4. Child is eligible due to prior title IV-E adoption assistance eligibility and meets the definition of a child with special needs

In the situation where a child is adopted and receives title IV-E adoption assistance, but the adoption later dissolves or the adoptive parents die, a child may continue to be eligible for title IV-E adoption assistance in a subsequent adoption. The only determination that must be made prior to the finalization of the subsequent adoption is whether the child is a child with special needs. Need and eligibility factors must not be redetermined when such a child is subsequently adopted because the child is to be treated as though his or her circumstances are the same as those prior to his or her previous adoption. Since title IV-E adoption assistance eligibility need not be re-established in such subsequent adoptions, the manner of a child's removal from the adoptive home, including whether the child is voluntarily relinquished to an individual or private agency, is irrelevant.

3.4 Adoption Assistance Eligibility Criteria: Applicable Children

A child is defined as an applicable child if:

- the child will reach at least age two by the end of the fiscal year in which their adoption assistance agreement was entered from January 1, 2018 until June 30, 2024 (or any age for a child with an adoption assistance agreement entered on or after July 1, 2024);
- the child has been in foster care for 60 consecutive months (5 years); or

- a child who is a sibling of an applicable child by virtue of age or time in foster care and is placed in the same adoption arrangement as his/her sibling

For an applicable child to be eligible for title IV-E adoption assistance, the child must meet the definition of a child with special needs **and**:

- at the time of the initiation of adoption proceedings, the child was in the care of a public or private child placement agency by way of:
 - voluntary placement
 - voluntary relinquishment; or
 - court-ordered removal with a judicial determination that remaining at home would be contrary to the child's welfare
- the child meets the disability or medical requirements of the SSI program;
- the child was residing with a minor parent in foster care (who was placed in foster care by way of a voluntary placement, voluntary relinquishment, or court-ordered removal with a judicial determination that remaining at home would be contrary to the child's welfare); **or**
- the child was eligible for adoption assistance in a previous adoption in which the adoptive parents have died or had their parental rights terminated.

Section 4

Title IV-E Kinship Relative Guardianship Assistance

4.1 Overview

The title IV-E Guardianship Assistance Program (GAP) is financial support provided to relatives who have assumed legal guardianship of eligible children for whom they previously cared as foster parents. The federal assistance is available for payments made to a relative guardian in accordance with a kinship guardianship agreement that is in writing, negotiated, and is binding. Children who receive title IV-E kinship guardianship assistance payments are categorically eligible for title XIX Medicaid in the State where the child resides. The Department may also claim allowable administrative and training costs for the proper and efficient administration of the guardianship assistance program.

For the purposes of the title IV-E GAP, the Department defines the term “relative” as any person related to the child by blood or marriage, including cousins and in-laws, and fictive kin (i.e. persons who the child considers a relative, such as a godparent or significant others whom the child claims as kin).

4.2 Kinship Relative Guardianship Assistance Eligibility Criteria

For a child to be determined eligible for title IV-E GAP, the child must have been:

- removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; and
- eligible for title IV-E foster care maintenance payments during at least a six-consecutive month period during which the child resided in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home

OR

- the sibling of an eligible child who is placed with the same relative under the same kinship guardianship arrangement (placement does not have to occur simultaneously)

Additionally, the Department must determine that:

- return home or adoption are not appropriate permanency options for the child;
- the child demonstrates a strong attachment to the prospective relative guardian;
- the relative guardian has a strong commitment to caring permanently for the child;
and
- a child who is 14 years or older has been consulted regarding the kinship guardianship arrangement

A kinship guardianship assistance agreement must be in place with a prospective relative guardian prior to the establishment of the legal guardianship. The kinship guardianship agreement must be in writing, negotiated, and binding. Kinship guardianship assistance payments may not exceed the foster care maintenance payment the child would have received if he or she remained in a foster family home.

Section 5

Escalated Age

5.1 Overview

In 2008, the Fostering Connections to Success and Increasing Adoptions Act provided an option for States to adopt a definition of “child” for the title IV-E program that would allow them to provide foster care, adoption and guardianship assistance for eligible youth up to 21 years of age if the youth met certain criteria.

5.2 Escalated Age Eligibility Criteria: Foster Care

For a youth to be eligible for title IV-E foster care assistance via Escalated Age (EA), the otherwise eligible youth must be:

- in foster care under the responsibility of the Department;
- 18 years of age or older, up to age 21; and
- meet one of the below listed educational conditions:
 - completing secondary education or a program leading to an equivalent credential; or
 - enrolled in an institution which provides post-secondary or vocational education

Foster care after age 18 applies to 3 categories of youth:

- those who remain in care after age 18;
- those who were former foster youth, left at the age of 18 or older, and request to return to foster care after age 18, through the age of 20; and
- those whose parental rights have been terminated, were in foster care immediately prior to DJS placement and left DJS at age 18 or older

For youth who remain in foster care continuously after age 18, no new court ordered removals or voluntary placement agreements are required to remain eligible for title IV-E payments. However, for court ordered removals, the requirement for a yearly judicial determination that reasonable efforts are being made to finalize a permanency plan (REFPP) for the youth continues. If this judicial determination is not made, the youth will not be eligible for title IV-E beginning the first month after the annual finding was due. If the court later makes a determination of REFPP, title IV-E eligibility may be restored.

Former foster youth can return to foster care after age 18 by signing a voluntary placement agreement (SS-FC-18). For the otherwise eligible youth to remain eligible for title IV-E foster care assistance, there must be a judicial determination within 180 days to the effect that the placement is in the best interests of the child. The “clock” for the 180 days begins the date the SS-FC-18 is signed by all necessary parties. A judicial determination that reasonable efforts are being made to finalize a permanency plan (REFPP) is not required for children who enter care via a voluntary placement agreement.

Former foster youth who return to foster care via court order may or may not warrant a new determination of title IV-E eligibility with new judicial determinations. Pursuant to 45 CFR 1356.21 (e), 6 months is the outside limit for a trial home visit without having to re-establish title IV-E eligibility if the child re-enters foster care, unless there is a court order extending the trial home placement beyond 6 months. Therefore, if a youth tries independence and returns to the Department’s care within 6 months, the Department is not required to reestablish judicial determinations related to contrary to the welfare or reasonable efforts upon the youth’s return. For youth who return to care beyond 6 months, a contrary to welfare judicial determination may state that it is in the best interests of the youth to be placed in foster care and a reasonable efforts to prevent removal finding may state that the Department made reasonable efforts to meet the youth’s needs prior to a foster care placement.

A youth on whose behalf title IV-E foster care maintenance payments or guardianship assistance payments are made, or who is subject to an adoption assistance agreement is categorically eligible for the title XIX (Medicaid) program available in the State of residence, including a youth up to age 21. Such a youth is eligible for Medicaid (if available for such youth) whether or not the title IV-E agency in the State of residence has taken the option to provide extended assistance.

For information regarding how child can remain eligible for AFDC, and thus title IV-E, after his or her 18th birthday, see Section 2.2.3 of this policy.

5.3 Escalated Age Eligibility Criteria: Adoption

For a youth to be eligible for title IV-E adoption assistance via EA, the otherwise eligible youth must be:

- part of an adoption assistance agreement that is in effect and the youth had attained 16 years of age before the agreement became effective;
- 18 years of age or older, up to age 21; and
- meet one of the below listed educational or employment conditions:
 - completing secondary education or a program leading to an equivalent credential;
 - enrolled in an institution which provides post-secondary or vocational education;

- participating in a program or activity designed to promote, or remove barriers to employment;
- employed for at least 80 hours per month
- is incapable of doing any of the previously described educational or employment activities due to a medical condition

Note: The Department can continue title IV-E adoption assistance to youth between the ages of 18 and 21 if the Department determines that the youth has a mental or physical disability that warrants the continuation of assistance by amending the adoption assistance agreement at any time prior to the youth attaining age 18.

5.4 Escalated Age Eligibility Criteria: Legal Guardianship

For a youth to be eligible for title IV-E legal guardianship assistance via EA, the otherwise eligible youth must be:

- part of a kinship guardianship agreement that is in effect and the youth had attained 16 years of age before the agreement became effective;
- 18 years of age or older, up to age 21; and
- meet one of the below listed educational or employment conditions:
 - completing secondary education or a program leading to an equivalent credential;
 - enrolled in an institution which provides post-secondary or vocational education;
 - participating in a program or activity designed to promote, or remove barriers to employment;
 - employed for at least 80 hours per month
 - is incapable of doing any of the previously described educational or employment activities due to a medical condition

Note: Once a child is determined eligible for the title IV-E Guardianship Assistance Program (GAP), payments can continue in accordance with the terms of the GAP agreement until the child attains 21 years of age if the Department determined the child has a mental or physical disability that warrants the continuation of assistance.

Section 6

Title IV-E Foster Care Candidacy: Traditional and Prevention

6.1 Overview

The Deficit Reduction Act of 2005 permits States to claim Federal reimbursement for allowable administrative costs for a potentially title IV-E eligible child who is at imminent risk of removal from the home. These children are considered “traditional candidates.” A traditional candidate must be clearly identified and documented to be at serious risk of being removed from the home and placed in a foster care setting as evidenced by the Department either pursuing his or her removal from the home or making reasonable efforts to prevent such removal. To claim this funding, worker time spent on traditional candidates must be accurately documented on the Department’s Report on Service Activity (ROSA) Time Study Report. A child may not be considered a candidate for foster care solely because the Department is involved with the child or his/her family. The phrase “child who is a candidate for foster care” as defined in section 475(13) of the Social Security Act for the purposes of the title IV-E prevention program does not apply for claiming these administrative costs.

The Bipartisan Budget Act of 2018 included the Family First Prevention Services Act (FFPSA), which provides new optional title IV-E funding for time-limited (one year) prevention services for mental health/substance abuse and in-home parent skill-based programs for candidates for foster care without regard to whether the child would be eligible for title IV-E foster care, adoption, or guardianship, pregnant/parenting foster youth, and the parents/kin caregivers of those children and youth. These children are considered “prevention candidates.” The Department may claim reimbursement for mental health and substance abuse prevention and treatment services provided by qualified clinicians, and in-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling that have been rated and approved by the Title IV-E Prevention Services Clearinghouse and are identified in the Department’s five-year title IV-E prevention program plan. The Department may claim administrative costs for the administration of the title IV-E prevention program program, which includes activities to develop necessary processes and procedures to establish and implement the provision of prevention services for eligible individuals, policy development, program management, and data collection and reporting. The Department may claim reimbursement for training for personnel employed or preparing for employment by the Department and of the members of the staff of state-licensed or approved child welfare agencies providing services to children who are candidates for foster care and pregnant/parenting foster youth (and their parents or kin caregivers).

6.2 Foster Care Candidacy: Traditional Candidates

6.2.1 Eligibility Criteria

A child is a traditional candidate for foster care when it is documented that he or she is at serious risk of being removed from the home and placed in a foster care setting as evidenced by the Department either pursuing his or her removal from the home or making reasonable efforts to prevent such removal. There are three acceptable forms of documentation to establish the child's eligibility:

1. a defined case plan which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child;
2. an eligibility determination form, which has been completed to establish the child's eligibility under title IV-E; or
3. evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order, or a transcript of the court proceedings

A child may not be simultaneously both in foster care and a candidate for foster care. Children on trial home visits can be considered traditional candidates for foster care, as the services and supports provided to a child on a trial home visit can be considered reasonable efforts to prevent the child's removal from the home and return to foster care. Children in aftercare may also be considered traditional candidates for foster care, as the services or supports provided to the newly reunited family can be considered reasonable efforts to prevent the child's removal from the home and re-entry into foster care. A child is not a traditional candidate for foster care when the planned out of home placement for the child is an arrangement outside of foster care, such as a detention facility.

6.2.2 Ongoing Eligibility Criteria

Once eligibility has been determined, there is no maximum length of time a child may be considered a candidate. However, the Department must document its justification for retaining a child in candidate status every six months. A child is no longer considered a foster care candidate if the child enters foster care, is no longer at imminent risk of removal from the home or is no longer being provided with reasonable efforts by the Department to prevent removal from the home.

6.3 Foster Care Candidacy: Prevention Candidates

6.3.1 Eligibility Criteria

For a child to be determined eligible for title IV-E prevention services, the child must be identified in a prevention plan as a:

- candidate for foster care; or
- pregnant or parenting foster youth

A child is a candidate for foster care when identified in a title IV-E prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care maintenance payments, title IV-E adoption assistance or title IV-E kinship guardianship assistance payments), but who can remain safely in the child's home or in a kinship placement as long as the title IV-E prevention services that are necessary to prevent the entry of the child into foster care are provided. This includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement.

A child may not be simultaneously in foster care and a candidate for foster care. Foster care includes children under the placement and care of the Department who are placed in a licensed or unlicensed kinship placement, regardless of whether payments are made by the state for the care of the child or whether there is federal matching of any payments that are made. As such, a child who is not under the placement and care of the Department and is in a kinship placement can be considered a candidate for foster care.

Prevention Plan Requirements

Prevention plans must identify whether the child is either a “child who is a candidate for foster care” or is a pregnant or parenting foster youth in need of prevention services in advance of the services being provided.

For children who are candidates for foster care, the child’s prevention plan must:

- identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver; and
- list the services to be provided to or on behalf of the child to ensure the success of that prevention strategy

For children who are pregnant or parenting foster youth, the youth's prevention plan must:

- be included in the youth's foster care case plan
- list the services to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent; and
- describe the foster care prevention strategy for any child born to the youth

Age Requirements

Candidates for foster care and pregnant or parenting youth must meet the definition of "child" as elected by the state for the title IV-E program to be eligible for the title IV-E prevention program. Therefore, otherwise eligible youth 18 years of age or older but less than 21 years may be eligible for the title IV-E prevention program in the following circumstances:

For youth otherwise eligible as candidates for foster care:

- a title IV-E adoption assistance or guardianship assistance agreement is in effect with respect to the youth (that went into effect after the child attained 16 years of age);
- the youth's adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement; and
- the youth meets one of the below listed educational conditions:
 - completing secondary education or a program leading to an equivalent credential; or
 - enrolled in an institution which provides post-secondary or vocational education

For youth otherwise eligible as pregnant or parenting youth:

- the youth meets one of the below listed educational conditions:
 - completing secondary education or a program leading to an equivalent credential; or
 - enrolled in an institution which provides post-secondary or vocational education

6.3.2 Ongoing Eligibility Criteria

Eligible candidates for foster care or pregnant/parenting youth can receive title IV-E prevention services for up to 12 months, beginning the date of the child's prevention plan. The services can be provided for additional 12-month periods, including contiguous 12-month periods, by determining and documenting in the child's prevention plan that the otherwise eligible candidate for foster care or pregnant/parenting youth meets the requirements on a case-by-case basis.

Section 7

Title IV-E Parental Substance Abuse Placement

7.1 Overview

The Bipartisan Budget Act of 2018 included the Family First Prevention Services Act (FFPSA), which allows title IV-E foster care payments for up to 12 months for an eligible child placed with a parent in a licensed residential family-based substance abuse treatment facility. The Department may claim foster care maintenance payments in accordance with the definition in section 475(4)(A) of the Social Security Act, which includes such things as the cost of providing food, clothing, shelter, and daily supervision. However, because a licensed residential family-based treatment facility for substance abuse is not a child care institution, the costs of administration and operation of the facility may not be included in the child's IV-E foster care maintenance payment. The Department may also claim administrative costs during the 12-month period for the administration of the title IV-E program, which includes things such as case management.

7.2 Eligibility Criteria

To be eligible for foster care maintenance payments during placement with the parent in a licensed residential family-based treatment facility for substance abuse, the child must meet all the title IV-E foster care eligibility requirements, except the AFDC eligibility requirements. The applicable title IV-E foster care eligibility requirements include:

- The child's removal occurred in accordance with either a judicial determination of "contrary to the welfare" or a voluntary placement agreement.
- For court-ordered removals, a judicial determination that the Department has made reasonable efforts to prevent the removal (or that reasonable efforts need not be made).
- For voluntary placement agreements,
 - The agreement must be signed by the parent or legal guardian and the Department representative; and
 - A judicial determination within 180 days to the effect that the placement is in the best interests of the child.
- The child is under the placement and care responsibility of the Department while placed with the parent in the facility.

- A judicial determination of reasonable efforts to finalize the permanency plan during the 12-month period. This determination must be made no later than 12 months from the date the child is considered to have entered foster care.

Section 8

Title IV-E Qualified Residential Treatment Program Placement

8.1 Overview

The Bipartisan Budget Act of 2018 included the Family First Prevention Services Act (FFPSA), which placed limitations on title IV-E foster care maintenance payments for placements that are not foster family homes.

A qualified residential treatment program (QRTP) placement is a specific category of a non-foster family home setting, for which the Department must meet detailed assessment, case planning, documentation, judicial determinations and ongoing review and permanency hearing requirements for a child to be placed in and continue to receive title IV-E foster care maintenance payments for the placement. The facility must also meet the definition of a child care institution, including that it be licensed and that criminal record and child abuse and neglect registry checks must be completed. Further, it must be accredited by one of the independent, not-for-profit organizations specified in the statute or one approved by the US DHHS Secretary.

The Department may claim administrative costs for the duration of the placement in the QRTP, regardless of whether the requirements are met to receive title IV-E foster care maintenance payments. These are administrative costs for the administration of the title IV-E program, and not the costs of the administration and operation of the QRTP/child care institution. Those costs are only allowable when a title IV-E foster care maintenance payment is provided for the child.

8.2 Eligibility Criteria

For a child's placement in a QRTP to qualify for foster care maintenance payments, a qualified individual must assess a child placed in a QRTP within 30 days of the start of each placement in a QRTP using an age-appropriate, evidence-based, validated, functional assessment tool approved by the US DHHS Secretary. The qualified individual may conduct this assessment prior to the placement in the QRTP but must complete it no later than the end of the 30-day period. If the assessment is completed within 30 days, but determines that the QRTP is not appropriate, the Department may claim title IV-E foster care maintenance payments for the first 14 days of the QRTP placement. If the assessment is not completed within 30 days, the Department cannot claim title IV-E foster care maintenance payments for the entirety of the QRTP placement (including not for the first 14 days).

Within 60 days of the start of each placement in a QRTP, the court must consider the assessment, determination, and documentation made by the qualified individual in approving the placement. If the court does not approve the placement within the 60-day timeframe, the Department may only claim title IV-E foster care maintenance payments for the first 60 days of the placement in the QRTP.

The Department may claim title IV-E foster care maintenance payments to transition a child from the QRTP to the next placement or permanent home up to 30 days after:

- the assessment determines that the QRTP is not appropriate;
- the court disapproves such a placement; or
- a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home

To claim title IV-E foster care maintenance payments after the first 12 consecutive months or 18 nonconsecutive months of the placement (or, in the case of a child who has not attained age 13, the first 6 consecutive or nonconsecutive months), the child's case plan must document:

- the most recent versions of the evidence and documentation submitted at each status review and permanency hearing (e.g., demonstrating that the assessments of the child support a continued QRTP, documenting treatment or service needs, and preparation for return home or other placement); and
- the signed approval of the head of the Department for the continued placement of the child in the QRTP