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Title IV-E Eligibility

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1. Background

This chapter is designed to assist social services district staff in determining, documenting, and authorizing eligibility of child welfare cases for Title IV-E (of the Social Security Act), Foster Care and Adoption Assistance (FCAA). Chapter One has two parts: Part A details the determination, documentation, and authorization for Title IV-E foster care, and Part B details the determination, documentation, and authorization for Title IV-E adoption assistance as well as for State adoption subsidy.

Correctly determining and documenting Title IV-E eligibility for a foster care or adoption case is crucial. Without a correct and complete determination of Title IV-E eligibility, the State of New York and the applicable social services district are not entitled to Title IV-E reimbursement (50% of the foster care maintenance and administrative costs) from the federal government. In addition, there must be satisfactory documentation to support the determination to enable the State of New York and social services districts to adequately demonstrate to the federal government that the case satisfies federal eligibility standards. The result of the failure to comply with federal eligibility requirements is that the State and the local district must cover the costs associated with such cases without Title IV-E reimbursement.

Documentation of Title IV-E eligibility both reflects and supports good casework practice. The federal criteria, as found in Title IV-E of the Social Security Act (SSA) and applicable federal regulations, reflect concerns that children are not needlessly removed from their homes without adequate safeguards and that the removal is in their best interests. In addition, the agency must demonstrate to the Family Court that reasonable efforts were made to prevent the removal or, because of certain statutorily specified circumstances, efforts to prevent the removal were not required. Also, Title IV-E requires that agencies responsible for the care of children in foster care make additional reasonable efforts to achieve and finalize the child's permanency plan, whether that be return home, permanent placement with other relatives or other suitable persons, adoption, or another planned living arrangement with a permanent resource.

Congress also continued the Title IV-E link to the repealed Title IV-A Aid to Families With Dependent Children (AFDC) program* by continuing the requirement to establish the child's eligibility for that program at the time the child was removed from his or her home and by using the State's Title IV-A Plan standards in effect as of July 16, 1996. Essentially, Title IV-E is a means to provide payments for foster care placements meeting the removal standards discussed above and for Title IV-E adoption assistance payments when it is determined that the child has special needs and is AFDC eligible at the time of removal, or is Supplemental Security Income (SSI) eligible when the adoption petition is filed.

Given this background, it must be remembered that federal and state audits of the Title IV-E program rely solely on documentation of eligibility. *If not documented as required by federal regulations and audit procedures*, it is not relevant for the audit how needy the child was at the time of removal, or what circumstances required the removal to protect the child's safety or well-being, or what efforts were made to prevent the removal.

* AFDC (Aid to Families With Dependent Children) had been the federal program of public assistance until it was repealed and replaced with the Temporary Assistance to Needy Families (TANF) program, known as Family Assistance (FA) in New York State. Nonetheless, the Title IV-E foster care and adoption assistance programs retain their historical linkage to the AFDC program. ADC (Aid to Dependent Children) had been the New York State Application of the federal AFDC program.

One purpose of this manual is to assist eligibility workers in understanding the requirements and securing necessary documentation and to assist social services districts in responding to future audits. Care must be taken to keep the Title IV-E categorical documentation with the foster care case if the district establishes a folder separate from the parent's folder when the child is freed for adoption. See Section 5 of this chapter for information on preparing for a Title IV-E audit.

Part A. Title IV-E Foster Care

1. Summary of Title IV-E Foster Care Eligibility

Title IV-E of the Social Security Act provides for federal funding of foster care maintenance and certain related administrative costs for children who meet the Title IV-E Foster Care requirements for initial and re-determination eligibility criteria. In order for social services districts to claim room and board payments under Title IV-E, the child's eligibility for the program must be established, documented, and authorized pursuant to the instructions in this chapter, and the child must reside in a Title IV-E eligible foster boarding home or facility.

For children in foster care, Title IV-E reimbursement may be claimed from the initial date of placement throughout the life of the foster care placement or until the child turns 18 (until age 19 if in secondary school and expected to graduate before turning 19) when and if all Title IV-E initial and re-determination eligibility criteria are met and remain in effect.

In summary, initial Title IV-E eligibility is contingent on the child being in the legal custody of the Commissioner of a social services district or the Office of Children and Family Services. For a child removed pursuant to a court order, the initial court order sanctioning removal must reflect an explicit case specific determination that continuation in the home would be contrary to the welfare of the child or that removal is in the best interests of the child. In addition, for a child removed by court order, there must be an explicit case specific determination by the court within 60 days of removal of the child from the child's home that reasonable efforts were made to prevent removal (including a finding that no efforts were reasonable) or, due to statutorily specified circumstances, that reasonable efforts are not required. For a child removed based on a voluntary placement agreement, the voluntary placement agreement must have been executed by a parent or legal guardian of the child. In addition, the social services district must determine and document that the child would have been *potentially eligible* for AFDC payments based on the State standards for that program as of July 16, 1996. [Children entering foster care can only be "potentially eligible" for AFDC since the creation of the Temporary Assistance to Needy Families (TANF) program and the concurrent repeal of the AFDC program under the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA)].

Note that in some instances it may not be possible to make a full determination of Title IV-E eligibility on the date of the child's placement because of the lack of adequate supporting documentation. For example, immediate confirmation of AFDC relatedness will be precluded if there is a lack of minimal demographic information with which to do a Family Assistance/Safety Net clearance, or if the family's income is not known. In these instances, the case may be opened as "Pending Title IV-E" which equates to FNP (Federal Non-Participation), and although eligibility for Title IV-E cannot be fully documented when the child is initially placed, Title IV-E eligibility should be further pursued. Encoding instructions for "Pending Title IV-E" are discussed later in this Chapter. Eligibility for Title IV-E must be established if and when it can be fully documented, and retroactive entry on WMS should be made to reflect the changes in category as appropriate.

In addition to the child's Title IV-E eligibility, the foster home or facility in which the child is placed must be fully approved, certified, or licensed according to State regulations and, if a facility operated by a public agency, have a capacity of no more than 25 beds. Eligible foster homes or

facilities include fully certified or approved foster boarding homes, agency operated boarding homes, group homes, non-public institutions, and public institutions with a capacity of no more than 25 beds are entered as such on CONNECTIONS, the State's Statewide Automated Child Welfare Information System (SACWIS). If Title IV-E eligible children reside in settings other than Title IV-E eligible foster homes or facilities, other assistance-related expenses, such as clothing, also are not eligible for Title IV-E reimbursement. TANF-EAF reimbursement may be available if the case has been determined eligible for that program. **NOTE:** The foster home or facility's status as non-Title IV-E eligible does not affect the Title IV-E eligibility of the child. However, during the period he or she is placed in an ineligible foster home or facility, Title IV-E reimbursement may not be claimed.

[Steps in Determining Eligibility](#)

Using the Initial Foster Child Eligibility Checklist, the first step for a foster care case is to determine eligibility for Title IV-E funding. After determining whether or not a foster child is eligible for Title IV-E funding, staff should continue to review the case to determine eligibility for TANF-EAF. While Title IV-E funding applies to foster care maintenance and administrative costs only (i.e., it may not be used for provision of social services), TANF-EAF funding may be used for care and maintenance for cases not eligible for Title IV-E, as well as tuition for foster children and social services (e.g., counseling and therapy), provided as part of the foster care plan or provided to prevent or reduce the need for foster care for children not in foster care status. Cases determined eligible for Title IV-E no longer require a separate determination for Title XIX – Medicaid (MA). All foster children who are US citizens who meet satisfactory immigration status are categorically eligible for Medicaid. (*See Chapter Four, Medicaid.*)

[2. WMS System Instructions for Claiming Title IV-E Foster Care](#)

Upon determination of eligibility for funding, workers must properly encode the case on the Welfare Management System (WMS) so that appropriate program and administrative costs are reimbursed by the federal government. Codes should also be indicated as such on the Services Authorization form (LDSS-2970).

If the case is found eligible for Title IV-E, enter the eligibility code 02, along with 08 (direct service code) on the services authorization and enter on WMS. In these instances (eligibility code 02), you must select option "Y" in the 12 MONTH AUTH REQUESTED field to generate a 12-month authorization period (AUTH PERIOD FROM DATE plus 12 months) regardless of the Direct Services being authorized.

If the case cannot be fully documented for Title IV-E at the time of placement and Title IV-E remains under review, encode the case as Pending Title IV-E, using the eligibility code 01, along with 08 (direct services) on the services authorization and enter on WMS. If the case is eligible for TANF-EAF the case should be encoded as EAF using an eligibility code of 04 (EAF).

Note: Title IV-E cannot be claimed until the first day of the month in which all Title IV-E eligibility criteria are met.

If the case is *ineligible* for Title IV-E and TANF-EAF, enter the appropriate eligibility code, as follows:

- 06 – SSI-Blind
- 07 – SSI-Disabled
- 08 – MA
- 14 – IE (Eligibility to be determined by income – Non-categorical)

If the case is ineligible for any funding because the child is not a U.S. citizen or a qualified immigrant (see Appendix B for definition of qualified immigrant as it pertains to Title IV-E in ACYF-CB-PIQ-99-01: Qualified Aliens), costs for the case are not reimbursable, except for child protective services, emergency medical services, non-residential domestic violence services, and non-residential adult protective services. In such cases, enter eligibility code 14 and add “N” suffix (for non-reimbursable) for direct services and POS (except for the emergency services noted).

If a case is TANF-EAF and Title IV-E, the case is referred as having dual eligibility for foster care. The case should be encoded with an eligibility code of 02 [FCAA (IV-E)] along with direct services of 08 (Foster Care) and 08E (Foster Care –EAF).

Administrative costs associated with an otherwise Title IV-E eligible foster child who is not placed in licensed, certified or approved foster care setting, and who is removed in accordance with section 472(a) of the Social Security Act [as in effect on July 16, 1996], shall be considered only for expenditures:

- (a) For a period of not more than the lesser of 12 months or the average length of time it takes for the social services district or the voluntary authorized agency to certify or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for certification or approval of the home as a foster home; or
- (b) For a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under Title IV-E into a foster home or child care institution (institution, group residence, group home or agency operated boarding home) licensed or approved by OCFS.

Administrative costs associated with an otherwise Title IV-E eligible foster child who is not placed in licensed, certified or approved foster care setting, and who is potentially eligible for benefits under New York’s approved Title IV-E State Plan and is at imminent risk of removal from the home, shall be considered for expenditures only if:

- (a) Reasonable efforts are being made in accordance with section 471(a)(15) of the Social Security Act to prevent the need for, or if necessary to pursue, removal of the child from the home; and
- (b) The social services district has made, not less often than every six months, a determination (or re-determination) as to whether the child remains at imminent risk of removal from the home.

Note: Required placement and legal activities must be recorded in CCRS to support the Automated Claiming System. See the BICS – Services Manual for detailed instructions regarding CCRS entry.

[3. Instructions for Completing the Initial Foster Child Eligibility Checklist \(Title IV-E Sections\)](#)

Instructions for completing the Case Information and Title IV-E sections of the Initial Foster Child Eligibility Checklist are presented in the following pages. The organization of the instructions corresponds to the organization of the Checklist. It is recommended that you place these instructions beside the Checklist as you complete the Checklist. *(See Appendix A for a sample copy of the Checklist.)*

The symbol → indicates a direction to enter information. When necessary, the directions are followed by an *Explanation* of the item and the *Documentation* required for the item.

Remember to complete a separate Checklist for each foster child.

Note: It is strongly recommended that all documentation be attached to the Checklist. It is also recommended that the Checklist with the attached documentation be kept in a separate, identified section of the case record that is maintained for categorical eligibility purposes.

<p><u>Section I.</u> <u>Case Information</u></p>	<ul style="list-style-type: none"> → Enter Case Name; Child’s Name (Last, First, Middle Initial); Unit and Worker Number; Date of Birth (DOB); Child’s Client Identification Number (CIN) (optional); Date of Placement; and Case Number. → Enter Family Assistance (FA) or Safety Net (SN) Clearance Date. → Check YES or NO regarding whether the child is an FA/SN Recipient. → Check Welfare Management System (WMS) Screen Print box if included in the case record. → Check Automated Budget Eligibility Logic (ABEL) Budget for the FA or SN box if included in the case record. → Enter Supplemental Security Income (SSI) Clearance Date. → Check YES or NO regarding whether the child is an SSI Recipient. <p>Note: If the foster child is receiving Family Assistance or Safety Net at the time of placement, notify Temporary Assistance to allow for the modification of the ABEL budget. When a family member of any foster child is found to be improperly receiving Temporary Assistance based on information in the case record, also notify Temporary Assistance.</p> <p>Explanation: Use the most accurate data available for entering information. The WMS FA or SN clearance (if available) contains reliable demographic data. See also court documents for date of birth. Receipt of SSI benefits can be checked on the State Data Exchange (SDX).</p>
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<p>Section II. Title IV-E Eligibility</p>	<p>→ Enter the date the court petition was filed leading to the child’s removal from the home. This date is used to determine the month for which AFDC eligibility must be established using the July 1996 AFDC standards to meet initial Title IV-E eligibility.</p> <p>→ Enter the date of the child’s removal from the home. (See pages 1-14 through 1-16 regarding physical and constructive removal.)</p> <p>Foster Child Must Meet All Requirements Below for Title IV-E Eligibility:</p> <p>1. Citizenship. Is the child a U. S. citizen or a qualified immigrant as defined under the federal PRWORA?</p> <p>→ Check YES if the child is a U.S. citizen or a qualified immigrant.</p> <p>→ Check NO if the child is not a U.S. citizen or a qualified immigrant. ☞ Go to Section IV and indicate INELIGIBLE FOR ANY FUNDING.</p> <p>Explanation: A recipient of Title IV-E must be a citizen of the United States or a qualified immigrant as defined by the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This citizenship or qualified immigrant requirement is the same for TANF and Title XX Below 200% programs; an answer of “No” results in ineligibility for any federal funding except for certain emergency services including child protective and emergency medical services.</p> <p>Citizenship or immigration status of any child in foster care must be verified regardless of whether Title IV-E foster care payments are made on their behalf.</p> <p>Documentation: If the child is a U.S. citizen, a birth certificate or similar document is required. If a qualified immigrant, WMS case composition screen prints showing child in receipt of FA, Medical Assistance (MA—see MA exceptions for documentation of citizenship in Chapter 2-, page 2-10 of this manual), the Home Energy Assistance Program (HEAP), or Food Stamps; court records, United States Citizenship and Immigration Service (USCIS) documents. (See <i>Appendix B for the ACFY-CB-PIQ-99-01 and the Immigration Status List.</i>)</p> <p>Note: You cannot rely on an individual’s receipt of Safety Net Assistance as documentation of qualified immigrant status, as there are additional groups of aliens that can qualify for Safety Net, which is a State program.</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>2. <u>Legal Authority and Best Interests.</u> a) Was the child removed from the home of a parent/other specified relative as the result of a court order under Article 3 (JD), 7 (PINS), or 10 (abuse/neglect) of the FCA, or SSL 358-a (voluntary surrender), and does the placement order transfer care and custody or custody and guardianship to the Commissioner of the social services district (LDSS) or OCFS?</p> <p>b) Does the initial court order sanctioning contain an explicitly documented case-specific determination that the court made a finding that continuation in the home would be contrary to the welfare of the child, or that removal was in the best interests of the child, or a Voluntary Placement Agreement (VPA) was signed by the child’s parent(s) or legal guardian(s)* pursuant to SSL 384-a, that gives care and custody to the Commissioner of LDSS?</p> <p>* Legal guardians are appointed by court order and so designated. Persons awarded care and custody are not legal guardians.</p> <p>Note: YES answers in both a) and b) must be checked for a court ordered placement.</p> <p>→ Check the appropriate box for the Basis of Legal Custody: FCA Article 3 (JD), 7 (PINS), or 10 (abuse/neglect), or SSL 358-a (voluntary surrender <u>only</u>) for a court approved placement, or SSL 384-a, for a Voluntary Placement Agreement.</p> <p>→ a) Check YES in box 2a if the care and custody or custody and guardianship have been awarded by court order to the Commissioner of LDSS or OCFS and enter the Date of Order.</p> <p>→ b) Check YES in box 2b if the initial removal order contains an appropriate best interest or contrary to the welfare determination and enter the Date of Order, if a court order; or</p> <p>→ c) Check YES in box 2c if a Voluntary Placement Agreement (VPA) was signed by the parent(s) or legal guardian(s) and the Local District Representative and enter the date of the VPA.</p> <p>→ Check NO if none of the above legal circumstances apply to the child. ☞ Go to Section III to determine eligibility for TANF-EAF.</p> <p>Explanation: All foster care placements require that legal custody (care and custody or custody and guardianship) be awarded to the Commissioner of the LDSS or OCFS. Court documents must indicate whether the child's legal custody (care and custody or custody and guardianship) is with the LDSS or with OCFS. (<i>If the Commissioner has <u>not</u> been awarded care and custody or custody and guardianship through a court order or Voluntary Placement Agreement, return the case file to the case manager for follow up.</i>) For children placed in foster care under Article 3 (JD—Juvenile Delinquent), 7 (PINS—Person in Need of Supervision), or 10 (abuse/neglect) of the FCA,</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>or Social Services Law (SSL) 358-a (voluntary surrender): There must be an explicit case-specific judicial determination in the <i>initial</i> removal order (which includes any detention or remand order issued by the court resulting in the child’s removal) stating, in effect, that continuation in the home would be contrary to the welfare, or that removal is in the best interests of the child or that removal of the child is necessary to prevent imminent risk. A court order determination stating the child is at “imminent risk” also qualifies as a best interest determination. A court order approving a placement under SSL 358-a made when a voluntary surrender agreement pursuant to SSL 384 is completed, can be considered a court-ordered placement for Title IV-E purposes. (Because a voluntary surrender for adoption agreement is not a voluntary placement agreement as defined by federal law, a surrender does not by itself constitute a basis for initial Title IV-E eligibility.) The order must show that the determination was made on a case-specific basis. This may be met by reference in the order to the documents or testimony upon which court based its finding (i.e., the petition or testimony, etc.) or a brief statement of the facts upon which the court based its findings is also acceptable. Failure to secure such a determination renders the case ineligible for Title IV-E for the duration of the foster care episode.</p> <p>Note: New York law provides that court orders placing a child into foster care pursuant to Article 10 of the FCA (abuse/neglect) and court orders approving a voluntary placement agreement must contain a date certain for the initial permanency hearing.</p> <p>Note: See 01 OCFS LCM-09, which addresses requirements about court orders involving specific placements made by the court that affect eligibility for Title IV-E. That LCM notes, in part, “Title IV-E requires, as a condition of eligibility, that a child's placement and care responsibility be vested either with the State agency, or another public agency with which the State has an agreement.” Federal case plan regulations and related federal policy provide that Title IV-E reimbursement is not available when a court orders a placement with a specific foster care provider without consideration of the agency's recommendation regarding placement. This does not mean that the court must always concur with the agency's recommendation in order for the child to be eligible for Title IV-E foster care payments. As long as the court hears the relevant testimony and/or receives a written report and works with all parties, including the agency with placement and care responsibility, to make appropriate placement decisions, payments will not be disallowed. The federal prohibition also does not apply to situations where the court merely names the child's placement in the court order as an endorsement or approval of the agency's placement choice.</p> <p>In response to the federal Adoption and Safe Families Act, the Office of Court Administration (OCA) amended the Uniform Rules of the Family Court, effective January 31, 2001. OCA court orders require that where the court order directs the placement of an adjudicated PINS or JD with a specific foster care provider, the order must also include language specifying that the court considered the Commissioner’s position regarding the child’s placement. (<i>See Appendix C for 01 OCFS LCM-09.</i>)</p> <p>For children whose care and custody has been placed voluntarily with</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>LDSS, there must be a Voluntary Placement Agreement signed by the parent(s) or legally appointed guardian(s) and the social services district. If the child remains in foster care for more than 180 days, the court must determine within 180 days of the child’s placement in foster care that continued placement is in the best interests of the child. Otherwise, Title IV-E eligibility ends at the 180th day.</p> <p>Documentation: Court documents must indicate whether the child's custody is with the LDSS or with OCFS.</p> <p>When determining the date of the court order use the hearing date located in the upper right hand corner of the court order, or if that is not so indicated, the date the order was signed by the judge.</p> <p>For audit purposes:</p> <ul style="list-style-type: none"> • The <i>initial</i> court order sanctioning removal (the detention or remand or disposition order, whichever is first under Article 3 (JD), 7 (PINS), or 10 (abuse/neglect) of the FCA, or SSL 358-a [voluntary surrender <u>only</u>]) must contain a case-specific determination that continuation in the home would be contrary to the welfare of the child, or that removal is in the best interests of the child or that removal is necessary due to imminent risk. For children placed into detention prior to entering foster care, a copy of the detention order must be secured and reviewed in order to document the best interests determination. The court documents must demonstrate the basis for the court’s determination. • Voluntary Placement Agreement signed by the parent(s) or legal guardian(s) and by a duly authorized representative of the social services district at the time of placement. <p>For eligibility determination purposes only: If the social services district has a reliable process in place in which the court orders and determinations in those orders are summarized on a separate document for the purpose of informing casework staff of court events, you may use the information in the summary in completing the Checklist. This summary material should be completed only by trained individuals who understand the contents of the court order and have reviewed it and also understand the requirements of Title IV-E eligibility. <u>In no event can the summary material be used to document eligibility for audit purposes.</u></p> <p>Note: A Voluntary Placement Agreement signed by a person other than a parent or legally appointed guardian is not Title IV-E compliant and the placement is not eligible for Title IV-E reimbursement.</p> <p>Note: The federal Administration for Children and Families (ACF) prohibits the use of “<i>nunc pro tunc</i>” (meaning “<i>now for then</i>”) court orders that change the substance of a prior judicial determination or constitute a judicial determination not previously made to support Title IV-E eligibility, (i.e., a court order that grants the Commissioner legal authority prior to the placement/hearing date).</p>
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Section II.
Title IV-E
Eligibility
continued

3. **Reasonable Efforts to Prevent Removal.** For placements made by a court order, is there an explicit case-specific determination by the court and stated in an order dated within 60 days from the date the child was removed from the child’s home, that the agency made reasonable efforts to prevent removal, (including a finding, where appropriate, that no efforts were reasonable) or that due to statutorily specified circumstances the lack of such efforts was not required?

Note: Although such a finding need not be in the initial court order sanctioning removal, it must be reflected in a court determination made within 60 days of removal.

- Check YES if there is an appropriate court order dated within 60 days from the date the child was removed from the child’s home and enter the date of the court order.
- Check NO if there is *not* an appropriate court order dated within 60 days from the date the child was removed from the child’s home with a determination as noted above. ☞ Go to Section III to determine eligibility for TANF-EAF.
- Check N/A (Not Applicable) if the placement was by Voluntary Placement Agreement.

Explanation:

For children placed in foster care by a court order, the court must make an explicit case-specific judicial determination within 60 days of removal from the child’s home to the effect that reasonable efforts were made to prevent removal, including that no efforts were reasonable, or that due to statutorily specified circumstances reasonable efforts are not required. Failure to secure such a determination within the appropriate time frame renders the case ineligible for Title IV-E for the duration of the foster care episode.

Note: A finding that no efforts are reasonable is not the same as a finding that there are statutory circumstances whereby reasonable effort are not required. It is important that the court order clearly reflects this distinction and contains a case specific determination of why in the particular case no efforts were reasonable.

Documentation:

A court order which contains a brief statement of the facts upon which the court based its “reasonable efforts were made to prevent removal” finding is acceptable. Also acceptable is where the court makes a reasonable efforts finding and cross-references documentation such as a petition or report or testimony upon which the court based its finding.

As noted, also acceptable for Title IV-E purposes is where the court makes a finding that reasonable efforts were not required. The court order must reflect this finding and the basis for such, which may only include:

- a) Aggravated circumstances, as defined in section 1012(j) of the FCA
- b) Previous Termination of Parental Rights (TPR), or

<p>Section II. Title IV-E Eligibility continued</p>	<p>c) Conviction for certain categories of felonies. (See section 1039-b of the FCA)</p> <p>4. Age. Was the child under the age of 18 on the date of the court order or on the date the Voluntary Placement Agreement was signed?</p> <p>→ Check YES if the child is under the age of 18 years.</p> <p>→ Check NO if the child is 18 years or older. ☞ Go to Section IV and indicate INELIGIBLE FOR TITLE IV-E AND TANF-EAF.</p> <p>Explanation: Under State law, a child must be under the age of 18 years to enter foster care. If the child is age 18 years or older at the time of removal and placement into foster care (using the date the court order was granted or the Voluntary Placement Agreement was signed), Title IV-E and TANF-EAF are not available. <i>(If the child is 18 years or older when entering foster care, return the case to the case manager for follow-up.)</i></p> <p>Documentation: FA/SN Cases – WMS clearance printout reflecting the child’s date of birth. All other Cases – Birth certificate, baptismal certificate, or progress notes that substantiate that a certificate was seen by the caseworker, and the note contains the child’s name, date of birth, parents’ names, certificate number, and school records. Case record information must be consistent with these data.</p> <p>5. Living with a Specified Relative. Was the child living in the home of a parent or specified relative who had legal custody in the month, or in any of the six months before the month (the defined period), that the court petition was filed or the Voluntary Placement Agreement was signed?</p> <p>Note: The removal home is considered by ACF as the home of the relative who had legal custody of the child at the time of removal. The <u>defined time period</u> for this item is “in the month, or in any of the six months before the month, that the court petition or order to show cause, seeking the child’s removal from the home was filed or the Voluntary Placement Agreement was signed.”</p> <p>→ Check YES if the child lived in the home of a specified relative at any time during the defined time period. Insert name of relative and relationship to child.</p> <p>→ Check the second box if the time condition is met, but the specified relative and the relative foster parent are the same person <i>or</i> the physical removal and the legal removal are not from the same person. (Child ineligible for Title IV-E.) ☞ Go to Section III to determine eligibility for TANF-EAF.</p> <p>→ Check NO if the child was not living in the home of a specified relative during the defined time period. ☞ Go to Section IV and</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p style="text-align: center;">indicate INELIGIBLE FOR TITLE IV-E AND TANF-EAF.</p> <p><i>Explanation:</i> The child must have been living in the home of a relative within the fifth degree (i.e., a specified relative) and such relative had legal custody of the child in the month of removal, or in any of the six months before the month, that the court petition or order to show cause, seeking the child’s removal from the home was filed or the Voluntary Placement Agreement was signed. In the case of a relative placement, for the child to be eligible for Title IV-E, the “specified relative” must be other than the child’s relative foster parent when a child is initially placed in a relative foster care setting. “Godparent” is not a relationship for purposes of Title IV-E eligibility. (See Appendix B for Determining a Specified Relative.)</p> <p><u>Removal Circumstances</u></p> <p><u>Physical removal</u></p> <p>If at the time of removal, a child is living with the parent or other specified relative who has legal custody of the child, and the child is being physically removed from this home, this is the home to which the court applies the “contrary to the welfare” judicial determination and the home in which financial eligibility for AFDC must potentially be met.</p> <p><u>Constructive removal</u></p> <p>An exception to the physical removal rule is constructive removal. If at the time of removal, a child is not living with the parent or other specified relative who has legal custody of the child, Federal regulations allow the child to be constructively removed from the home of the legally responsible relative. Constructive removal is the legal transfer (by court order or voluntary placement agreement) of care and custody (placement and care) from the specified relative who has legal custody of the child to the Title IV-E agency. It is only when a child is not living with the parent or other specified relative who has legal custody of the child (and therefore cannot be physically removed from that home) that the Federal regulations allow the child to be constructively removed from the home of the parent or other specified relative.</p> <p style="text-align: center;">Examples of Removals That <u>Meet</u> the Title IV-E Test</p> <p><u>Example - Physical Removal:</u> The child is born on February 1, 2006, with withdrawal symptoms. The hospital makes a report to the SCR alleging child maltreatment. Based on information developed pursuant to the CPS investigation, the child is placed in foster care on February 10, 2006. The child enters foster care directly from the hospital. Therefore, within the defined time period, the child was living with a “specified relative” (mother), and the child is eligible for Title IV-E foster care. (A newborn is considered to have been living in the home of his/her mother during the period of hospitalization or incarceration, regardless of the length of this period.)</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p><u>Example 1 - Constructive Removal:</u> The child is in a three-generation household in which the mother leaves the home. The grandmother contacts the LDSS four months later and the agency petitions the court within six months of the date the child lived with the mother in the home. The LDSS certifies the grandmother's home as a foster family home and the child continues to reside in the home in foster care. The child is eligible for Title IV-E foster care since he or she lived with the parent within six months of the LDSS's petition to the court, and was constructively removed from the parent's custody (i.e., there was a paper removal of custody).</p> <p><u>Example 2 - Constructive Removal:</u> The child lived with either a related or non-related interim caretaker for less than six months prior to the LDSS's petition to the court for removal of the child. The LDSS certifies or approves the home as a foster family home and the child continues to reside in that home in foster care. The child is eligible for Title IV-E foster care if he or she lived with the parent within six months of the LDSS's petition to the court, and was constructively removed from the parent's custody (i.e., there was a paper removal of custody).</p> <p style="text-align: center;">Examples of Removals That <u>Fail</u> the Title IV-E Test</p> <p><u>Example 1:</u> The child lives with a related interim caretaker for seven months before the caretaker contacts the LDSS to remove the child from his/her home. The agency petitions the court and the court removes custody from the parents and the agency physically removes the child from the home of the interim related caretaker. The child would not be eligible for Title IV-E foster care since he or she had not lived with the parent or other specified relative from whom there was a constructive removal within six months of the initiation of court proceedings. (Although the child was physically removed from the home of the related interim caretaker, that removal cannot be used to determine Title IV-E eligibility since the removal was not the result of a voluntary placement agreement or judicial determination, as required in section 472(a)(1) of the Act. Nor does constructive removal apply to this situation because it had been more than six months since the child lived with the parent from whom custody was removed.)</p> <p><u>Example 2:</u> The child lived with either a related or non-related interim caretaker for more than six months prior to the LDSS's petition to the court. The LDSS certifies or approves the home as a foster family home and the child remained in that home in foster care. The child is ineligible for Title IV-E foster care since he or she had not lived with the specified relative within six months of the LDSS's petition to the court, and was not removed from the home of a relative. (The constructive removal does not apply to this situation because it had been more than six months since the child lived with the parent.)</p> <p>Documentation: FA/SN Cases – WMS (<i>Upstate only</i>) clearance printout showing case composition and that the child was an active member in the FA/SN case at the time of removal. All Other Cases – Case record progress notes/service plans and court</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>petitions that indicate the child had been living with a specified relative at any time in the defined time period.</p> <p>6. <u>Parental Deprivation.</u> Was the child deprived of parental support and care for one or more of the following reasons? (1) absence of parent from home; (2) incapacity of parent; (3) unemployed/underemployed parent; (4) death of parent.</p> <p>→ Check YES if the child was deprived of parental support and care for one or more of the above reasons. <i>Circle all the reasons that apply.</i></p> <p>→ Check NO if the child was not deprived of parental support and care for one or more of the above reasons. ☞ Go to Section III to determine eligibility for TANF-EAF.</p> <p><i>Explanation:</i> During the month of removal (using the date of the court petition leading to the child’s removal from the home or Voluntary Placement Agreement signed by all parties), the child must be deprived of parental support or care because of one or more of the following reasons: (1) absence of parent from the home; (2) physical or mental incapacity of parent; (3) unemployment/underemployment of parent; or (4) death of parent. This is part of the AFDC eligibility process.</p> <p><i>Documentation:</i> FA/SN Cases and All Other Cases <u>All removals are evaluated based on the home of the relative who has legal custody.</u> The child must be potentially eligible for AFDC in the home from which the child was physically or constructively removed, which is the home to which the court applied the “contrary to the welfare” judicial determination.</p> <ol style="list-style-type: none"> 1) Absence of parent from home – case record, progress notes/service plans, “Application for Services” (LDSS-2921) indicating that a parent is absent from the home from which the child was removed. 2) Incapacity of parent – copy of a medical or mental health/ treatment report referring to at least one parent, containing diagnosis/treatment and the relationship of the incapacity to the child’s need for foster care; documentation of receipt of some form of disability income, such as Supplemental Security Income (SSI) or Social Security Disability (SSD) income; or a progress note entry of observation of obvious physical handicap, e.g., loss of an arm. 3) Unemployed/underemployed parent – A revision in the State Plan for Title IV-E defines the unemployed/underemployed parent deprivation factor as having been met in cases in which the income of the parent(s) is below the eligibility level of Medical Assistance. Any two parent household, which meets the medically needy income and resource provisions and which has identified one of the two parents as the principal wage earner, can be categorically eligible for AFDC-U. By definition, the income threshold for public
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>assistance (AFDC) is below the Medical Assistance level. Acceptable documentation is a WMS screen print indicating that the family is in receipt of Temporary Assistance (FA/SN) or Medicaid (MA) during the month of removal; proof that the parent is in receipt of unemployment benefits or wage stub indicating that income of the parent is below the medically needy standard.</p> <p>4) Death of parent – death certificate, court petition, Family Assessment and Services Plan (FASP) entries, probation reports, or other legal document indicating death of a parent.</p> <p>7. <u>AFDC Financial Eligibility.</u> Would the child have been financially eligible for AFDC in accordance with program rules in effect on July 16, 1996, based on the family’s income and resources in the month that the Voluntary Placement Agreement was signed or the court petition was filed leading to the removal of the child?</p> <p>→ Check YES if financial eligibility for AFDC as described above is documented.</p> <p>→ Check NO if financial eligibility for AFDC as described above is not documented.</p> <p>→ Check NO if income is unknown.</p> <p>→ If no...☞ Go to Section III to determine eligibility for TANF-EAF.</p> <p>→ If answers to 1-7 are YES...☞ Go to Section III, TANF-EAF Eligibility</p> <p><i>Explanation:</i> The determination as to whether the child would have been financially eligible for AFDC based on the program rules in effect on July 16, 1996, is made using the family’s income and resources in the removal month [the month that the Voluntary Placement Agreement was signed or initiation of court proceedings (a court petition was filed or a court order was issued, whichever is earlier) leading to the removal of the child]. The child must be potentially eligible for AFDC in the home to which the court applied the “contrary to the welfare” judicial determination, which is also the home from which the child was physically or constructively removed.</p> <p>A WMS clearance indicating that a child was in receipt of Family Assistance (FA) or Safety Net (SN) in the month that the court petition was filed or the Voluntary Placement Agreement was signed and the contemporaneous budget can be used as documentation of income but not as documentation of AFDC eligibility.</p> <p>For all cases involving children removed from the home of a parent, staff must complete a scratchpad budget for the WMS Automated Budget Eligibility Logic (ABEL) using the July 1996 date (the look-back date). The resultant budget must be printed and maintained as part of the Title IV-E documentation package in the case record, and a copy of the family’s FA/SN, MA or Food Stamp (FS) budget, if the family is in receipt of</p>
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<p>Section II. Title IV-E Eligibility <i>continued</i></p>	<p>benefits at the time of removal, must also be printed and kept in the case record.</p> <p>Note: Family resources may not exceed \$10,000 to pass this test.</p> <p>Note: If a child or a parent is in receipt of Supplemental Security Income (SSI) at the time of the removal from the home, the AFDC budget calculation should be done excluding both the SSI recipient as a household member and the SSI recipient’s income. (This is known as the SSI “invisibility” rule.) If the family is found to be financially eligible for AFDC, the financial part of the Title IV-E test has been met.</p> <p>Note: When assessing the benefits of Title IV-E eligibility for children in receipt of SSI at the time of placement, keep in mind that the effect on foster care funding differs between the two programs. Although concurrent receipt of SSI and Title IV-E is allowed, the SSI benefit would be reduced dollar for dollar by the Title IV-E payment. Title IV-E provides 50% federal reimbursement for all costs for room and board, allowable administrative expenses, and clothing. The SSI benefit is a fixed amount. Therefore, social services districts should consider the overall Title IV-E reimbursement benefit as contrasted to the SSI income that can be used to offset room and board costs. Generally, whenever a child is placed in a group foster care program, Title IV-E will provide the greater funding as compared to SSI. (<i>See Appendix B for a chart of current SSI award levels and Appendix C for A Guide to SSI and Social Security Benefits for Children and Youth in Out-of-Home Care.</i>)</p> <p>Note: In any case where the child is an immigrant disqualified under section 245A(h) or 210(f) of the federal Immigration and Nationality Act for receiving aid under New York’s approved Title IV-A State Plan in or for the month in which the voluntary placement agreement was entered into or the court proceedings leading to placement were initiated, the child is considered to satisfy the requirements for AFDC eligibility with respect to that month, if the child would have satisfied such requirements but for the disqualification.</p> <p>Documentation: The July 16, 1996 AFDC scratchpad budget and the supporting income documentation (either a copy of the family’s FA/SN, MA or FS budget, if on assistance at the time of removal, or other proof of income sources, such as at least one representative wage stub, a copy of the Social Security award letter, etc.).</p>
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<p><u>Section III. TANF-EAF Eligibility</u></p>	<p><i>See Chapter Two for instructions on completing this section.</i></p>
<p><u>Section IV. Eligibility Summary & Signatures/ Supervisor's Review</u></p>	<ul style="list-style-type: none"> → Check the ELIGIBLE FOR TITLE IV-E ONLY box if the child is <i>only</i> eligible for Title IV-E and not eligible for TANF-EAF. Encode child 02 (eligibility code) and 08 (direct service code) on WMS. Select option “Y” in the 12 MONTH AUTH REQUESTED field to generate a 12-month authorization period (AUTH PERIOD FROM DATE plus 12 months) regardless of the Direct Services being authorized. → Check the ELIGIBLE FOR TANF-EAF ONLY box if the child is <i>only</i> eligible for TANF-EAF. Encode child 04 (eligibility code) and 08 (direct service code) on WMS. → Check the ELIGIBLE FOR TITLE IV-E AND TANF-EAF (DUAL ELIGIBILITY) box if the child is eligible for <i>both</i> Title IV-E and TANF-EAF. Encode child 02 (eligibility code) and 08 and 08E (direct service codes) and add “E” suffix to POS lines as needed on WMS. → Check the INELIGIBLE FOR TITLE IV-E AND TANF-EAF box if the child is not eligible for Title IV-E or TANF-EAF but is eligible for other State (foster care block grant) funding. Encode child 06, 07, 08 or 14 (eligibility code) and 08 (direct service code) on WMS. → Check the INELIGIBLE FOR ANY FUNDING box as child is not a U.S. citizen or qualified immigrant. Encode child 14 (eligibility code) and 08 (direct service code) and add "N" suffix to direct service and POS lines as needed on WMS. → Sign and enter the date. → Obtain the supervisor’s signature and date. → Proceed to review the case for TITLE XX Below 200% of Poverty eligibility (except for cases that have been determined eligible for Title IV-E <i>and</i> TANF-EAF and cases that are INELIGIBLE FOR ANY FUNDING).
<p><u>Section V. Documentation of Eligibility</u></p>	<p>Section V is designed to allow a recording of what type of documentation was secured for both Title IV-E and TANF-EAF. For cases found eligible for Title IV-E, items 1- 7 should be completed by noting the document(s) used to support each element of the criteria and where in the case record it can be found.</p> <ul style="list-style-type: none"> → List the documentation used for each item. → Enter the location of the documentation in the case record; <i>or</i> check the box in the last column if attached to the Checklist. <p>Explanation: It is strongly recommended that all documentation be attached to the Checklist. It is also recommended that the Checklist with the attached documentation be kept in a separate, identified section of the case record that is maintained for categorical eligibility purposes.</p>

4. [Instructions for Completing the Re-determination of Title IV-E Eligibility Checklist \(Foster Care\)](#)

Federal and State regulations require that eligibility for assistance and services be re-evaluated periodically. The process of re-determining eligibility and reauthorizing the case in WMS is known as a “re-determination.” Re-determination of cases found to be Title IV-E (foster care) eligible must occur at least every twelve months.

Complete this form for: (1) foster care cases determined eligible for Title IV-E and requiring a twelve-month re-determination of that category; and (2) foster care cases for which Title IV-E eligibility has been suspended because of a lapse in legal authority or failure to secure a reasonable efforts determination on a 12 month basis as required by Title IV-E.

Note: Since a proper re-determination of categorical eligibility depends on the outcome of the *initial* determination, always review the Initial Foster Child Eligibility Checklist (or similar document) before preparing the re-determination form. During your review, make sure that all documentation for the initial determination is on file and take steps to obtain any missing documentation. Cases that are not fully documented cannot be continued as Title IV-E, and other categories of eligibility, such as Temporary Assistance to Needy Families-Emergency Assistance to Families (TANF-EAF), should be pursued and claimed, if appropriate.

Instructions for completing the Re-determination of Title IV-E Eligibility Checklist (Foster Care) are presented in the following pages. The organization of the instructions corresponds to the organization of the Checklist. It is recommended that you place these instructions beside the Checklist as you complete the Checklist. (*See Appendix A for a sample copy of the Checklist.*)

The symbol → indicates a direction to enter information. When necessary, the directions are followed by an *Explanation* of the item and the *Documentation* required for the item.

Remember to complete a separate Checklist for each foster child.

Note: It is strongly recommended that all documentation be attached to the Checklist. It is also recommended that the Checklist with the attached documentation be kept in a separate, identified section of the case record that is maintained for categorical eligibility purposes. Care should be taken to keep the Title IV-E categorical documentation with the foster care case if the district establishes a folder separate from the parent’s folder when the child is freed for adoption.

<p>Section I. <u>Case Information</u></p>	<p>→ Enter Case Name; Child’s Name (Last, First, Middle Initial); Unit and Worker Number; Child’s Date of Birth (DOB); Child’s Client Identification Number (CIN); Date of (Initial) Placement; and Case Number.</p>
<p>Section II. <u>Re-determination of Title IV-E Eligibility</u></p>	<p>Foster Child Must Meet All Requirements Below to Continue Title IV-E Eligibility:</p> <p>1. <u>Legal Authority/Judicial Review.</u> At the time of re-determination of Title IV-E eligibility, does the Commissioner of LDSS or OCFS retain care and custody or custody and guardianship of the child? Is there a court order providing care and custody or custody and guardianship to the Commissioner of LDSS or OCFS remaining in effect <i>or</i> in the case of a voluntary placement, has the court reviewed the child’s placement within 180 days of the placement and determined that it is in the best interest of the child to continue in foster care, and is there a current court order that awards care and custody or custody and guardianship to the Commissioner?</p> <p>→ Check YES if care and custody awarded to the Commissioner continues in effect under Article 3, 7, 10 or 10-A of the FCA or SSL 358-a. <i>Do not use</i> the Voluntary Placement Agreement as the instrument providing care and custody to the Commissioner if the placement has gone beyond the 180th day without a court determination that it is in the best interests of the child to remain in foster care.</p> <p>Note: Article 10-A of the FCA applies to children placed into foster care pursuant to either Article 10 of the FCA (abuse/neglect) or voluntarily pursuant to section 384-a of the SSL and to all foster children who are completely legally freed for adoption, including foster children who entered foster care either pursuant to Article 3 (JD) or Article 7 (PINS) of the FCA and who are completely freed for adoption. For these children the legal authority continues until the court issues an order to the contrary.</p> <p>→ Check Document Attached.</p> <p>→ Check the appropriate box for Basis of Legal Custody: FCA Article 3 (JD), 7 (PINS), 10 (abuse or neglect) or 10-A (entered foster care pursuant to FCA Article 10 (abuse/neglect), or in care pursuant to a voluntary placement agreement or entered foster care pursuant to FCA Articles 3 or 7 and is completely legally freed for adoption).</p> <p>Enter the Date of Court Order and Period for non-completely freed foster child in care pursuant to either FCA Article 3 or 7: From _____ To _____</p> <p>→ Enter the Docket Number, if a court order.</p> <p>→ Check NO if none of the above legal circumstances apply to</p>

<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>the child. ☞ Go to Section III and indicate INELIGIBLE FOR TITLE IV-E.</p> <p><i>Explanation:</i> For a child placed as an abused or neglected child pursuant to Article 10 of the FCA, or voluntarily pursuant to section 384-a of the SSL or any category of foster child who is now completely legally freed for adoption, legal authority does not lapse by the passage of time for the failure to secure an extension of placement order. Pursuant to Article 10-A of the FCA, as enacted by Chapter 3 of the Laws of 2005, effective 12/21/05, the court retains ongoing jurisdiction and legal authority on the part of LDSS (and OCFS for completely freed JDs) remains in effect until a subsequent order from the court either discharges the child or transfers legal custody.</p> <p>For court-placed children (FCA Articles 3 and 7 who are not completely legally freed for adoption): An initial order (disposition or remand) or a subsequent order (extension of placement/permanency hearing) must be in effect throughout the child's placement. Except for the initial permanency hearing in certain Article 3 placements, extension of placement hearings are combined with permanency hearings and must be held within 12 months of the day the child is considered to have entered foster care and every 12 months thereafter.* Cases not meeting this criteria lose Title IV-E eligibility at the end of the month that legal authority lapses and the case remains ineligible until legal authority is re-established. At that time, Title IV-E eligibility resumes as of the first day of the month in which legal authority is re-established as long as all other elements of Title IV-E eligibility continue.</p> <p>*Note: Pursuant to New York State law, the date certain of the first permanency hearing is now included in all initial removal orders for children placed pursuant to Article 10 of the FCA (abuse/neglect) and in the SSL 358-a order approving the Voluntary Placement Agreement. The date certain for compliance with New York State standards for the initial permanency hearing must be no later than eight months from removal (date of removal plus 60 days plus 6 months). At the conclusion of each permanency hearing, a new date certain will be established for next permanency hearing, which for compliance with New York State standards, must be commenced no later than 6 months from the conclusion of the previous permanency hearing. Each permanency hearing must be concluded within 30 days of the scheduled date certain for such permanency hearing. The failure to hold a permanency hearing by the date certain for a case subject to Article 10-A of the FCA does <u>not</u> result in the lapse of legal authority.</p> <p>When determining the date of the court order, use the hearing date located in the upper right hand corner of the first page of the order, or if that is not available, the date the court order was signed by the judge.</p>
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>Documentation: All Cases (One of the following)</p> <ul style="list-style-type: none"> • <u>Court Placements</u> <ol style="list-style-type: none"> a) For foster children who entered care pursuant to Article 10 of the FCA (abuse/neglect) or a voluntary surrender pursuant to section 384 of the SSL (with a section 358-a of the SSL court order), or all foster children who are completely legally freed for adoption, the most recent permanency hearing court order issued pursuant to Article 10-A of the FCA continuing the child in foster care. b) For foster children who entered care pursuant to Article 10 of the FCA or section 358-a of the SSL (voluntary surrender) and who have not had their initial permanency hearing, the initial court order placing the child into the care and custody of LDSS. c) For foster children placed into foster care pursuant to Article 3 (JD) or Article 7 (PINS) who are not completely legally freed for adoption, the court disposition under Article 3 or 7 of the FCA placing or continuing the child in foster care which covers the foster care authorization period. <p style="text-align: center;">-or-</p> <ul style="list-style-type: none"> • <u>Voluntary Placements</u> <ol style="list-style-type: none"> a) The most recent permanency hearing order issued pursuant to Article 10-A of the FCA approving continuation of the child in foster care and the court order issued pursuant to section 358-a of the SSL with a determination made within 180 days of placement of the child into foster care that continued placement in foster care is in the best interests of the child. b) If the initial permanency hearing has not been held, the court order issued pursuant to section 358-a of the SSL approving the voluntary placement agreement with a determination made within 180 days of placement of the child in foster care that continued foster care placement is in the best interests of the child. <p>2. <u>Reasonable Efforts to Finalize Permanency</u> (APPLICABLE TO COURT-ORDERED REMOVALS ONLY). Within 12 months of the date the child is considered to have entered foster care, and every twelve months thereafter, is there an explicit case-specific determination made by the court, and stated in a court order that the agency made reasonable efforts to finalize the child's permanency plan or to enable the child to safely return home?</p> <ul style="list-style-type: none"> → Check YES if there is a court order issued within the past 12 months since the last hearing with a reasonable efforts determination stating that the agency made reasonable efforts to finalize the permanency plan that is in effect or made reasonable efforts to enable the child to safely return home. → Check Document Attached. → Enter the Date of Court Order. → Check NO if there is <i>not</i> a court order issued within the past 12 months since the last reasonable efforts determination was
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>made stating that the agency made reasonable efforts to finalize the permanency plan that is in effect or made reasonable efforts to enable the child to safely return home. ☞ Go to Section III and indicate INELIGIBLE FOR TITLE IV-E.</p> <p>→ Check N/A (Not Applicable) if the child has not been in care for at least 12 months.</p> <p><i>Explanation:</i> As of March 27, 2000, cases eligible for Title IV-E must have a court determination that the agency has made reasonable efforts to finalize the child’s permanency plan for children in foster care for 12 months from the date the child is considered to have entered foster care. The date a child is considered to have entered foster care is the earlier of the date of the fact finding of abuse or neglect pursuant to Article 10 of the FCA or the date that is 60 days after the child was removed from his or her home. However, for youth who have been placed in detention after the removal from the home pursuant to either Article 3 or 7 of the FCA and the youth remains in detention for more than 60 days prior to placement into a foster care setting (i.e., the M910 date in the Child Care Review Service (CCRS)), the M910 date is the date the child is considered to have entered foster care.</p> <p>Also, as of March 27, 2001, any child in foster care for more than 12 months pursuant to a court order does not continue to be eligible for Title IV-E unless a court has determined that the agency has made reasonable efforts to finalize the child’s permanency plan within the preceding 12 months.</p> <p>Cases not meeting this criterion lose Title IV-E eligibility at the end of the month that the reasonable efforts determination is due and the case remains ineligible until this determination is made. At that time, Title IV-E eligibility resumes as of the first day of the month in which the determination was made, as long as all other elements of Title IV-E eligibility continue.</p> <p><i>Documentation:</i> a) For children placed into foster care pursuant to Article 10 of the FCA (abuse/neglect) or by a voluntary surrender pursuant to section 384 of the SSL (with a SSL 358-a court order) or who are completely legally freed for adoption, a court order issued pursuant to Article 10-A of the FCA that contains an explicit case-specific determination that reasonable efforts were made to enable the child to return home safely or, if the permanency plan is not to return to his or her home, that reasonable efforts were made to finalize the child’s permanency plan. b) For children placed into foster care pursuant to Article 3 (JD) or Article 7 (PINS) and who are not completely legally freed for adoption, a court order issued that contains an explicit case-specific determination that reasonable efforts were made to enable the child to return home safely or if the permanency plan is not for the child to return to his or her home, that reasonable efforts were made to finalize the child’s permanency plan.</p>
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>Note: A court order which contains a brief statement of the facts upon which the court based its “reasonable efforts were made to finalize the child’s permanency plan” finding is acceptable. Also acceptable is where the court makes a reasonable efforts finding and cross-references documentation, such as a petition or report (i.e., FASP or Permanency Hearing Report) or testimony upon which the court based its finding. If the child’s permanency goal is discharge to the child’s parent, a finding of reasonable efforts to enable the child to return to his or her home safely supported by a statement of fact or comparable cross-reference to facts, documentation, testimony, etc. is also acceptable.</p> <p>Note: A court finding that reasonable efforts to finalize the child’s permanency plan or to enable the child to return home safely were not made does not satisfy Title IV-E requirements. The case will lose its eligibility for Title IV-E at the end of the month in which the reasonable efforts determination was due. Eligibility will resume on the first day of the month in which an acceptable reasonable efforts to finalize/return home safely determination is made by the court.</p> <p>Note: When determining the date of the court order, use the hearing date located in the upper right hand corner of the first page of the order, or if that is not available, the date the court order was signed by the judge.</p> <p>3. Age. Is the child under the age of 18 <i>or</i> under the age of 19 and a full-time student expected to complete a program of secondary school or equivalent level of vocational or technical training before reaching age 19?</p> <p>Note: A re-determination of Title IV-E should always be done when a child turns 18 years old. The educational status of the child should be part of that review to determine if the child is expected to graduate from secondary education, prior to turning age 19. If not, Title IV-E ceases.</p> <ul style="list-style-type: none"> → Check YES if the child is under the age 18, or under age 19 and a full-time student. → Enter the expected date of graduation. → Check Document Attached. → Check NO if the child is 18 or older and not a full-time student. ☞ Go to Section III and indicate INELIGIBLE FOR TITLE IV-E. <p>Explanation: Title IV-E eligibility is limited to children under 18 years of age <i>and</i> to children under 19 years of age who are full-time students expected to complete a program of secondary school or equivalent level of vocational or technical training before reaching age 19.</p>
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>Documentation:</p> <ul style="list-style-type: none"> • Birth certificate, baptismal certificate, non-services WMS screen prints that reflect the child’s date of birth, or progress note that substantiates that a certificate was seen by the caseworker, and the note contains the child’s name, date of birth, parents’ names, certificate number, and school records. Case record information must be consistent with these data. • Child abuse/neglect screen prints from CONNECTIONS, court documents, other documents showing consistency in birth date (i.e., documents that provide reasonable evidence that the age criterion has been met) <i>and</i> if the youth is between the ages of 18 and 19, school verification that he/she will graduate or complete vocational/technical education before his/her 19th birthday. <p>4. <u>Parental Deprivation.</u> Does the parental deprivation factor continue to exist in the same household from which the child was removed? (1) absence of parent from home; (2) incapacity of parent; (3) unemployed/underemployed parent; (4) death of parent; (5) surrender or termination of parental rights.</p> <p>→ Check YES if the child is deprived of parental support and care for one or more of the above reasons. <i>Circle all the reasons that apply.</i></p> <p>→ Check Document Attached.</p> <p>→ Check NO if the child is not deprived of parental support and care for one or more of the above reasons. ☞ Go to Section III and indicate INELIGIBLE FOR TITLE IV-E.</p> <p>Explanation: There are five possible deprivation factors at re-determination: (1) continued absence of parent from the home; (2) incapacity of parent; (3) unemployed/underemployed parent; (4) death of parent; and (5) surrender or termination of parental rights. (<u>Pursuant to federal policy, factor 5 is <i>not</i> considered a deprivation factor in initial determinations.</u>)</p> <p>At re-determination, the deprivation factor(s) may be the same as those that existed at the time of initial determination, or they may be different. In any case, the deprivation factor is always measured in relation to the home from which the child was removed. A Title IV-E eligible child removed from the home of his/her parents would remain eligible as long as any of the five factors exists. To illustrate:</p> <p><u>Example:</u> Title IV-E child is removed from a household with two parents and the family is on Family Assistance, Safety Net Assistance, or Medical Assistance at the time of re-determination, thus meeting the unemployed/ underemployed parent factor.</p>
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p><u>Example:</u> Title IV-E eligibility for a child was initially based upon “absent father.” At the time of re-determination, the father has returned to the home, and there is no other deprivation factor present. The child is therefore no longer eligible for Title IV-E. If the father or mother subsequently leaves the home (or any of the other deprivation factors occur), the child may again become eligible for Title IV-E reimbursement.</p> <p>Note: If a case is ineligible for Title IV-E at the time of initial determination, it can never be eligible for Title IV-E for the duration of that episode of foster care. If a Title IV-E case loses eligibility due to the lack of a parental deprivation factor at re-determination, the case may regain eligibility if a deprivation factor recurs in the future.</p> <p>Note: Trial Home Visits: A trial home visit (trial discharge) may not exceed six months in duration, unless court orders a longer trial home visit. If a trial home visit extends beyond six months and has not been authorized by the court, or exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement and Title IV-E eligibility must be newly established using initial eligibility criteria. Under these circumstances, the judicial determinations regarding contrary to the welfare or best interests and reasonable efforts to prevent removal are required.</p> <p>Documentation:</p> <ol style="list-style-type: none"> (1) Absence of parent from home – case record progress notes/service plans, “Application for Services” (LDSS-2921) indicating that a parent is absent from the home. (2) Incapacity of parent – copy of a medical/treatment report referring to at least one parent, containing diagnosis/treatment and the relationship of the incapacity to the child’s need for foster care; or progress note entry indicating telephone verification of above; or progress note entry of observation of obvious physical handicap, e.g., loss of an arm. (3) Unemployed/underemployed parent – family is recorded on WMS as an active Medical Assistance case, or an active FA or SN case which has income standards below the Medical Assistance (medically needy) standard of need. Unemployed/underemployed parent exists when the case is at or below the Medical Assistance (medically needy) level of need. (4) Death of parent – death certificate or other legal document indicating death of a parent, court papers, progress notes. (5) Surrender or termination of parental rights – copy of court order indicating termination of parental rights or voluntary surrender for adoption agreement signed by parent.
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<p>Section II. Re-determination of Title IV-E Eligibility <i>continued</i></p>	<p>5. <u>Financial Eligibility.</u> Is the child’s income, including receipt of parental support for the child or the placement agency, less than 185% of the monthly foster care cost and are his/her resources \$10,000 or under?</p> <p>→ Check YES if the child is financially eligible as described above; and</p> <p>→ Check NO if the child is not financially eligible as described above. ☞ Go to Section III and indicate INELIGIBLE FOR TITLE IV-E.</p> <p><i>Explanation:</i> Upon re-determination of Title IV-E eligibility, only the <i>child's</i> income and resources can be considered. A child is eligible for Title IV-E if his/her monthly income does not exceed 185% of the monthly foster care costs <u>and</u> his /her resources do not exceed \$10,000. Once a child is eligible for Title IV-E, the earned income of the child is disregarded if he or she is a full-time student.</p> <p><i>Documentation:</i> Case record documentation indicating that the <i>child's</i> monthly income does not exceed 185% of the foster care need standard and that resources do not exceed \$10,000.</p>
<p><u>Section III. Title IV-E Eligibility Summary & Signatures/ Supervisor’s Review</u></p>	<p>→ Check the ELIGIBLE FOR TITLE IV-E box if the child is eligible for Title IV-E. Encode child 02 (eligibility code) and 08 (direct service code) on WMS. Select option “Y” in the 12 MONTH AUTH REQUESTED field to generate a 12-month authorization period (AUTH PERIOD FROM DATE plus 12 months regardless of the Direct Services being authorized.</p> <p>→ Check the INELIGIBLE FOR TITLE IV-E box if the child is not eligible for Title IV-E. Discontinue 02 (eligibility code) on WMS. If previously determined eligible for TANF-EAF, encode child 04 (eligibility code) on WMS. Otherwise, encode child 06, 07, 08 or 14 (eligibility code). Maintain 08 (direct service code) on WMS.</p> <p>→ Sign and enter the date.</p> <p>→ Obtain the supervisor’s signature and date.</p>

[5. Being Prepared for a Title IV-E Audit \(Foster Care\)](#)

The essential element in an audit response is preparation – i.e., securing and keeping required documents in the case record, where they can be easily and quickly located. If a case record or the required documentation cannot be produced in a Title IV-E audit, the case will be found ineligible. For both State and federal foster care audits, the child’s case record including legal records and the foster care provider record(s) are required.

Following are suggestions on how a social services district can be prepared to respond effectively and what kinds of documentation must be provided for a Title IV-E audit.

- Designate a staff person who is familiar with the program requirements and knows where to go for the records, what type of documentation is needed, and where to go for additional documentation, if needed. For example, if a court order needed to document Title IV-E eligibility is not found in the case record, the audit response person should know where to look for other sources, such as the district’s legal files or copies maintained by the court. In regard to legal authority, best interests, and reasonable efforts, the only documentation accepted by federal auditors are court orders and court transcripts.
- At the opening of a case, make sure that eligibility information is placed in a separate file, or maintained in a separate, identifiable section in a child’s case record, and maintain the eligibility documentation on an ongoing basis. An eligibility folder should be kept in a secure location where the staff can readily retrieve materials. All eligibility documentation must be kept with the foster care case file. Care should be taken to keep the Title IV-E categorical documentation with the foster care case if the district establishes a folder separate from the parent’s folder when the child is freed for adoption. All Title IV-E foster care cases must be available for audit, including cases where foster children have been adopted.
- Keep closed records in locations where they can be easily tracked and accessed so that if selected for an audit, a district can retrieve them in a short time frame. Title IV-E audits can require documentation of events that occurred many years ago since many of the issues related to Title IV-E eligibility refer to the time of the child’s removal from the home and placement into foster care.
- Documentation includes:
 1. Initial and re-determination of eligibility checklist forms;
 2. Age documentation;
 3. Citizenship – birth certificate or other proof of citizenship, or proof of qualified immigrant status;
 4. Description of the circumstances surrounding the child’s removal for each foster care episode – the checklist is not enough. The file must include documentation stating when and from what home a child was removed, what was the household composition, the family’s income and if income is zero, there must be an explanation of how the family survives, from progress notes or other sources;
 5. Court petition leading to the removal, or the signed Voluntary Placement Agreement;

6. Initial court order removing the child from the home or approving the removal, including the determination that the removal was in the child’s best interests or continuation of the child in the home would be contrary to the welfare of the child;
7. Court order dated within 60 days of the date the child was removed from his or her home, documenting the court’s determination that the agency made reasonable efforts to prevent removal, including that lack of such efforts was reasonable or that due to statutorily specified circumstances reasonable efforts are not required. For placements prior to 3/27/00, the reasonable efforts finding must still be made but is not limited to within 60 days of removal from the home. The judicial determination may be made at any point in the foster care episode. However, Title IV-E foster care maintenance payments may not begin until the first month all eligibility requirements pertaining to the removal are satisfied;
8. Applicable annual judicial determination on a case-specific basis by the court that the agency has made reasonable efforts to finalize the permanency plan for the child; or to enable the child to safely return home (usually set forth in the Permanency Plan review order.);
9. Continuing legal authority for the entire placement period.
10. Documentation of the parental deprivation factor(s) at time of removal and at each re-determination;
11. The July 16, 1996 AFDC look-back budget for children placed after 10/31/97, and the supporting income documentation, either a copy of the FA/SN, MA, or FS budget that documents income for the family, if on assistance at the time of removal, or of other income sources;* and
12. Annual re-determination of child eligibility for Title IV-E financial status, assets less than \$10,000.

Note: To be acceptable, all documents must be complete and legible. If the photo copy is not readable, the agency does not get the benefit of the doubt. Court orders or Voluntary Placement Agreements must be signed and dated. Documentation must be updated and maintained as new events affecting Title IV-E eligibility occur. (*For more information on the specific documents required, see the Eligibility Documentation Desk Aid section in this manual.*) For court related eligibility requirements, the only acceptable documentation is the court order or transcript of the applicable court determination.

Provider Eligibility

Federal Title IV-E audit protocols require documentation that the home or facility in which the child was placed is eligible for reimbursement. Therefore, in responding to a Title IV-E audit, the home or facility must be fully certified or approved and the provider eligibility must be fully established for the audit period. If the child was in more than one setting for the audit period, the eligibility for each setting must be documented.

*Districts using the automated “Eligibility Worksheet for Title IV-E, TANF-EAF, and Title XX Below 200%” should provide copies of that document. Districts will also be required to provide payment information for all Title IV-E reimbursement payments since the initial placement.

When the child is placed in a foster boarding home at any time during the audit period – either a foster home certified or approved by LDSS or a voluntary authorized agency (including a relative foster home) or certified by OCFS-- a copy of the certification or approval must be made available as well as the provider record establishing the various elements required under Title 18 NYCRR Part 443.

Other Considerations

Once a case is identified for an audit, whether State or federal:

- Identify child's information from his or her family case.
- Note the *audit period*. The information for a child's eligibility will be pertinent for the child's most recent admission into foster care *prior* to the audit period.
- Locate all information for the eligibility criteria cited above that pertain to the time the child was removed from the home and placed into care.
- For all placements during the audit period, locate any foster boarding home or foster care facility documents that approve, certify or license the home or facility, including documentation that criminal history background checks were completed for foster home providers and for household members aged 18 and older.
- Have the staff person or unit responsible for determining eligibility review for all necessary eligibility documentation.
- Send copies if a currently active case is being called to an off-site location for review.

6. [Frequently Asked Questions about the Title IV-E Final Rule](#)**Source: Federal Child Welfare Policy Manual**

The Administration for Children and Families, U.S. Department of Health and Human Services
<http://www.acf.hhs.gov/programs/cb/>

Question 1: Federal regulation at 45 CFR 1356.21(g)(3) specifies that Federal financial participation (FFP) for title IV-E foster care maintenance payments may not be claimed when a court orders a placement with a specific foster care provider. In situations where the court specifies the placement in a court order after hearing testimony from various sources, including the State IV-E agency, is FFP available? Is availability of FFP affected when the court disagrees with the agency's placement recommendation and specifies another placement in the order?

Answer 1: Title IV-E requires, as a condition of eligibility, that a child's placement and care responsibility be vested either with the State agency, or another public agency with which the State has an agreement. The purpose of the regulatory provision in question is to assure that the authority of the State title IV-E agency with placement and care responsibility for the child is not usurped. A "court-ordered" placement, as prohibited in the rule, involves the court taking placement and care responsibility away from the agency and assuming placement and care responsibility by choosing the child's placement without bona fide consideration of the agency's recommendation regarding placement. This does not mean that the court must always concur with the agency's recommendation in order for the child to be eligible for title IV-E foster care payments. As long as the court hears the relevant testimony and works with all parties, including the agency with placement and care responsibility, to make appropriate placement decisions, we will not disallow the payments. The prohibition in the rule also does not apply to situations where the court merely names the child's placement in the court order as an endorsement or approval of the agency's placement choice.

Question 2: Licenses for foster family homes and child-care institutions often go into effect or may lapse on a day other than the first or last day of the month. How should the State claim Federal financial participation (FFP) for a title IV-E eligible child who is placed in a foster family home or child-care institution that is licensed for a portion of a month?

Answer 2: If a foster family home or child-care institution is licensed for a portion of a month, the State may claim FFP for the entire month when an otherwise eligible child has resided in that home for the entire month. The State must prorate any claims when the otherwise eligible child has resided in the home or institution for a portion of the month.

Question 3: Can a State claim title IV-E reimbursement for an eligible child placed in a childcare institution that has a provisional license? Can the State claim title IV-E if the child care institution has a probationary license due to a violation of State procedures?

Answer 3: If a childcare institution is granted a provisional license or placed on probationary status due to its failure to fully satisfy all of the State's licensing standards, then children placed in such facility are not eligible for title IV-E foster care maintenance payments. The childcare institution becomes eligible for Federal financial participation when it comes into full compliance with the State's licensing standards.

Question 4: For what population of children must the section 422 protections be provided?

Answer 4: Section 422 of the Act requires that all of the protections set forth therein be provided to all children in foster care. “Foster care” is defined at 45 CFR 1355.20 as: 24-hour substitute care for all children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes but is not limited to foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes regardless of whether the foster care facility is licensed and whether payments are made by the State or local agency for the care of the child or whether there is Federal matching of any payments that are made.

Situations exist in which a child who, while s/he may have been removed from her/his home and placed in 24-hour substitute care, is not considered to be in “foster care” because of the nature of the facility in which s/he is placed. In accordance with the statute, we have not considered detention facilities, forestry camps, training schools, facilities that are primarily for the detention of children who are adjudicated delinquent, and facilities like medical or psychiatric hospitals as foster care placements (see ACYF-IM-88-22). Nothing in the new regulations changes this policy. Therefore, children placed in facilities of the type described earlier are not, by definition, in foster care and the State is not required to provide the protections to them while placed in such facilities.

Question 5: States often temporarily place children in facilities that are outside the scope of what is considered “foster care,” such as a detention facility or psychiatric hospital, with the intent of moving the child to a foster care placement at a later date. What is the “date the child is considered to have entered foster care” (the date used to satisfy the case review requirements at section 475(5) of the Social Security Act (the Act)) for such children?

Answer 5: If a child is initially placed in a facility that is not a foster family home or child-care institution, i.e., the child is not in “foster care,” and remains in such facility for more than 60 days, the date such child is considered to have entered foster care is the day that the child is placed in a foster family home or child-care institution. If, however, the child’s entry into foster care from such a setting occurs within 60 days of his or her removal from the home, States should determine the “clock” for satisfying the requirements of the case review system in accordance with section 475(5)(F) of the Act, i.e., the earlier of a judicial finding of abuse or neglect or 60 days from the date of removal.

Question 6: How is a child’s IV-E eligibility and the timing for holding six-month periodic reviews and permanency hearings impacted by an interruption in a foster care episode, for example, a temporary placement in a detention facility or psychiatric hospital?

Answer 6: States have two options for addressing the scenario presented in this question: First, despite the interruption in foster care, the State may choose to treat the foster care placement as continuous if the original court order pertaining to the child’s removal from the home is still in effect. If the State chooses to do so, the “clock” for holding six-month periodic reviews and permanency hearings would stop while the child is placed in a facility that is outside the scope of “foster care” because the State is not required to hold such reviews and hearings for children who are not in “foster care.” The timing for holding six-month periodic reviews and permanency hearings would resume in accordance with the original schedule when the child returns to a foster care setting. The State must *re-determine* the child’s eligibility for title IV-E upon his/her placement in a foster family home or childcare institution by verifying the child’s need and deprivation.

Alternatively, the State may treat the placement in a facility that is outside the scope of foster care as a discharge from foster care. Obviously, if the child is discharged from foster care, the

State is not required to hold six-month periodic reviews or permanency hearings for such child. The timing for holding such reviews and hearings begins anew when/if the child returns to foster care. The State must, however, *re-establish* the child's title IV-E eligibility, which includes obtaining the requisite judicial determinations.

Regardless of the option the State chooses, no Federal financial participation is available while the child is placed in a facility that is considered outside the scope of "foster care."

Question 7: Must the State hold six-month periodic reviews and permanency hearings for children on trial home visits?

Answer 7: Historically, this has been an area in which States have had some flexibility. If the State considered a child who is on a trial home visit to be "in foster care," then it was required to continue holding six-month periodic reviews and permanency hearings during that visit. If not, then the State was not required to hold such reviews or hearings. There is no change in policy at this time. If the trial home visit ends within the six months allotted in the regulations at 45 CFR §1356.21(e), then the foster care placement is considered continuous and the State should hold six-month periodic reviews and permanency hearings in accordance with the original schedule.

Question 8: Must the State hold six-month periodic reviews and permanency hearings for children who have run away?

Answer 8: If the State retains responsibility for the placement and care of the child during the runaway episode, it must continue to hold six-month periodic reviews and permanency hearings on the original schedule, even if the child has not been located.

Question 9: Must the State hold six-month periodic reviews and permanency hearings for children in foster care who are placed in unlicensed foster family homes?

Answer 9: Yes. The protections set forth at section 422(a)(10) of the Social Security Act apply to all children in foster care, regardless of a foster care provider's licensure.

Question 10: How should the State establish title IV-E eligibility for a child who is temporarily placed in a facility that is considered outside the scope of "foster care," such as a detention facility or psychiatric hospital, prior to his/her placement in foster care? When may the State begin to claim for such child if s/he is placed in foster care?

Answer 10: The State must comply with the title IV-E eligibility criteria as set forth in the statute at section 472(a) of the Social Security Act (the Act) and the implementing regulations at 45 CFR §§1356.21(b), (c), and (d). The State must establish the child's eligibility at removal (which includes meeting the AFDC eligibility requirements as in effect on July 16, 1996, and judicial determinations to the effect that the child's removal from the home was contrary to his/her welfare and that reasonable efforts were made to prevent such removal) even for children who are not initially placed in a foster care setting. Title IV-E is an entitlement program and, as such, no flexibility exists with respect to satisfying the requisite eligibility criteria. If such eligibility criteria are not satisfied within the time frames prescribed in the regulation, the child is ineligible for title IV-E funds.

When the child is transferred to a facility that meets the requirements of section 472(c) of the Act, Federal financial participation is available from the first day of placement in the month in which all Title IV-E eligibility requirements are met.

Question 11: Please explain the requirements with respect to title IV-E eligibility and the case review system at section 475(5) of the Social Security Act (the Act) for a child and his/her minor parent in foster care. Specifically, must the State have placement and care responsibility of both, is the child considered to be in foster care even if the State does not have placement and care responsibility, may the child continue to receive IV-E if the minor parent runs away, and may the State claim administrative costs for the child?

Answer 11: Section 475(4)(B) of the Act requires that foster care maintenance payments for a minor parent in foster care cover a child of such parent if the child is placed with the minor parent. Neither the statute nor regulations require the State to have placement and care responsibility of the child in order for such costs to be included in the minor parent's foster care maintenance payment. Good social work practice suggests that the minor parent's case plan include the needs of the child and that the child's needs and interests be addressed during the six-month periodic reviews and permanency hearings held on behalf of the minor parent. However, the State is not required to satisfy these requirements independently on behalf of the child because s/he has not been removed from her/his biological parent and; therefore, pursuant to Federal law and regulations, is not in foster care.

In cases where the State has placement and care responsibility for both the minor parent and child, and has placed them in different foster homes, title IV-E eligibility would have to be determined individually for each. Likewise, if a minor parent leaves the foster home and does not take the child, the child's eligibility for foster care then would be based upon his or her individual circumstances. In addition, the State would have to obtain responsibility for placement and care of the child through either a Voluntary Placement Agreement or a court order with the required judicial determinations. Once the child is placed separately from the minor parent, s/he is considered to be in foster care and the requirements of the case review system at section 475(5) of the Act apply.

When a child is placed with his/her minor parent, no administrative costs may be claimed on her/his behalf because s/he is not eligible for nor a recipient of title IV-E foster care maintenance payments. The State is merely increasing 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. In situations where the eligibility of the minor parent and his/her infant is determined separately and the two are placed separately, the State may claim administrative costs for the child because s/he is eligible for and receiving title IV-E maintenance payments in her/his own right. Section 472(h) of the Act makes clear that a child whose costs are covered by the Title IV-E payment made with respect to the minor parent is a child with respect to whom foster care maintenance payments are made under Title IV-E and is thus eligible for medical assistance and social services under Titles XIX and XX.

Question 12: We understand that the timing for conducting the *initial* permanency hearing and six-month periodic review and for obtaining the *initial* judicial determination related to making reasonable efforts to finalize a permanency plan is based on the date the child is considered to have entered foster care. Are *subsequent* reviews/hearings and determinations to be held/obtained based on the date the child is considered to have entered foster care or within 12 months of the date the prior hearing or determination was actually held/obtained?

Answer 12: Either methodology referenced in the question is consistent with and would satisfy the regulatory requirements. We will, therefore, leave the methodology employed to the State's discretion. We strongly encourage States, however, to adopt and set forth in State policy one methodology for obtaining/holding the subsequent determinations/ hearings/reviews to ensure consistent application across the title IV-E caseload.

Question 13: Some States do not transcribe court hearings; rather, court clerks take “bench notes” during the course of a hearing. Are these “bench notes” acceptable for purposes of meeting the documentation requirements of 45 CFR §1356.21(d)?

Answer 13: No. Bench notes do not constitute acceptable documentation of judicial determinations. In accordance with the regulations, the only acceptable alternative documentation of judicial determinations, absent language in a court order, is a transcript of the court proceedings. We recommend that the State agency collaborate closely with the judicial system to assure that the necessary judicial determinations are made and appropriately recorded for children who must be removed from their homes.

Question 14: Often, courts do not specify time periods for trial home visits for children in foster care. If a court does not specify a time period, should we assume it cannot be longer than six months without having to re-establish eligibility for Title IV-E foster care payments?

Answer 14: Pursuant to 45 CFR 1356.21(e), six 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 six months. If there is a court order extending the trial home visit beyond six months, and the trial home visit does not exceed the time frame in the court order, the child retains Title IV-E eligibility upon returning to foster care following the trial home visit.

Part B. Adoption Assistance

1. Summary of Title IV-E Adoption Assistance Eligibility

The Title IV-E Adoption Assistance program provides funds to states to assist in providing ongoing financial and medical assistance (MA) for adopted children (ADC or SSI eligible) with special needs, e.g., a determination has been made that: 1) the child cannot or should not be returned home; 2) there exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be adopted without adoption assistance; and 3) a reasonable but unsuccessful effort has been made to place the child without subsidy except where it is not in the best interest of the child. Funds are also used for the administrative costs of managing the program and training staff. The goal of this program is to facilitate the placement of handicapped or hard-to-place children in permanent adoptive homes and thus prevent long, inappropriate stays in foster care. (*See Appendix B for federal and State definitions of special needs, handicapped, and hard to place.*)

Title IV-E Adoption Assistance payments have been available for eligible children in New York who were adopted on or after October 1, 1980. There are four ways that a child can be eligible for Title IV-E Adoption Assistance. Below are the specified time(s) when an eligibility determination must be made and the associated criteria:

Initial Entry into Foster Care	At the time the Adoption Petition is filed or prior to finalization of the adoption
<p>1. Child must be determined ADC eligible at <u>initial entry into foster care</u> (the child does not have to be determined to have special needs at the time of removal by court order or voluntary placement agreement - that may happen later).</p> <p>Note: At the initial Title IV-E Foster Care determination, if the child is Title IV-E Foster Care <i>eligible</i>, the child is determined, as part of this process, ADC eligible. If the child is determined <i>ineligible</i> for Title IV-E Foster Care, the child must have met all of the following ADC criteria for Title IV-E Adoption Assistance:</p> <ul style="list-style-type: none"> • Best Interest (in the initial removal court order) • Deprivation • Age: 18 or under • Financial Need: based on parent's income and resources • Removal From Home of A Specified Relative 	<p>1. Child must be determined to have special needs <u>prior to finalization of the adoption.</u></p> <p style="text-align: center;">↑</p>

AND →
OR ↓
2. The child is eligible for SSI benefits and is determined to be a child with special needs prior to the finalization of the adoption. (Note: <u>No</u> ADC or any additional criteria is required.);
OR ↓
3. Prior to the finalization of the adoption, the minor parent is in foster care and receiving Title IV-E foster care payments that cover both the minor parent and the minor parent’s child, and the child is determined to have special needs;* Note: <u>No</u> ADC or any additional criteria is required.
OR ↓
4. Prior to finalization of a subsequent adoption, a child who was Title IV-E eligible in a <i>previous</i> adoption is determined to have special needs.

**Clarification received from HHS explains that Title IV-E adoption assistance, including an expanded subsidy amount, is available to cover the needs of an otherwise eligible minor parent and her infant when the parent is being adopted and her infant or child remains in her custody and lives with her in the adoptive home. (94 ADM-12, July 7, 1994, pp. 8-9.)*

Title IV-E, SSI, or ADC eligibility of the child must have been determined by the time the adoption proceedings are initiated. Although a re-determination for Title IV-E Foster Care may have been done within six months before the filing of the adoption petition, a specific determination for Title IV-E, SSI, or ADC must be completed at this point. Eligibility for one of these programs must be documented in the child’s case record. The Adoption Assistance Eligibility Checklist (LDSS-3912) must be completed as documentation for Title IV-E Adoption Assistance.

For adoptions finalized on or after October 1, 1997: When a Title IV-E adoption has been dissolved or the adoptive parent(s) dies, Title IV-E eligibility for the case will resume if and when the child is re-adopted. Another eligibility determination for ADC or SSI related purposes is not needed, but a determination of “special needs” eligibility must be documented for the new adoption.

Title IV-E Adoption Assistance payments must continue until the child is age 18, or age 21 if the child is mentally or physically disabled and the condition warrants continuation of assistance. Payments must be discontinued if the State or social services district that administers the program determines that the parents are no longer legally responsible for the support of the child or the parents are no longer providing any support for the child. Federal standards authorize that payments may start as soon as an agreement is signed and the child has been placed in an adoptive home. State standards for the commencement of subsidy payments are set forth in 18 NYCRR 421.24.

Note: In any case where the child is an immigrant disqualified under section 245A(h) or 210(f) of the federal Immigration and Nationality Act for receiving aid under New York’s approved Title IV-A State Plan in or for the month in which the voluntary placement agreement was entered into or the court proceedings leading to placement were initiated, the child is considered to satisfy the

requirements for ADC eligibility with respect to that month, if the child would have satisfied such requirements but for the disqualification.

[Authorization and Review of Title IV-E Adoption Assistance](#)

Adoption assistance and adoption services must be authorized on WMS. WMS will produce the Services Authorization form (LDSS-2970); this authorization is generated initially for a 12-month period. The case must be reauthorized on WMS every 12 months thereafter. **Note:** The case also must be authorized initially for MA on WMS, and reauthorized every 12 months thereafter. (See *Section 4, WMS System Instructions.*)

There is no required annual review of the parents' or child's income in order to continue Title IV-E Adoption Assistance. Once eligibility has been established, it does not need to be re-determined. Once a child is determined eligible to receive Title IV-E Adoption Assistance, he or she remains eligible and the subsidy continues until: 1) the age of 18 for a child who is determined hard to place or the age of 21 if the social services district determines that the child has a mental or physical disability that warrants the continuation of assistance; or 2) the social services district determines that the adoptive parent(s) is no longer legally responsible for the support of the child or the parent(s) is no longer providing any support for the child. Parents who receive adoption assistance payments have a responsibility to keep the State or local agency informed of circumstances that would make them ineligible for Title IV-E Adoption Assistance payments.

[Medical Assistance for Title IV-E Eligible Child](#)

A child who is eligible for and receiving Title IV-E Adoption Assistance payments is automatically eligible for Medical Assistance (MA) coverage. When a Title IV-E Adoption Assistance payment is authorized, MA must be provided for the adopted child.

When a child whose guardianship and custody has been committed to a voluntary authorized agency is adopted with Title IV-E Adoption Assistance, the social services district must also authorize MA for the child.

There is no review of the parents' or child's income or resources in order to continue MA (that is, when eligibility for MA is provided pursuant to Title IV-E Adoption Assistance).

Upon the death of the adoptive parents of a child who is handicapped or hard-to-place and receiving federal Adoption Assistance, categorical eligibility for Title IV-E MA is lost and the child may be eligible for the State Medical Subsidy. In either situation, before the State Medical Subsidy can be provided, a determination must be made that the child is ineligible for MA based on eligibility under the provision of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (See Section 2, MA under COBRA.)

- If the child is handicapped and not otherwise eligible for MA, the child is eligible for the State Medical Subsidy.
- If the child is hard-to-place and not eligible for MA, the child is eligible for the State Medical Subsidy, **if** he or she would have been eligible for such payments at the time of the subsidy application.

The State Medical Subsidy will continue to the legal guardian, adoptee, or representative payee until the child reaches the age of 21 if the legal guardian remains legally responsible for the child and provides any support for the child.

2. [Summary of State Adoption Subsidy Eligibility](#)

Eligibility for adoption subsidy is more broadly defined by New York State than under the federal law. Instances when a child who is ineligible for Title IV-E Adoption Assistance is eligible for State Adoption Subsidy are:

1. The child is under the age of 21 and he or she was freed for adoption before the age of 18, and the child is handicapped or hard to place as provided in 18 NYCRR 421.24 (a) (2) and 18 NYCRR 421.24(a) (3) does not meet one of the eligibility requirements for Title IV-E Adoption Assistance. (See Appendix B for definitions of handicapped and hard to place.)
2. In cases where federal reimbursement is lost at age 18 as a result of the absence of a handicapping condition warranting continued payment to age 21, State Adoption Subsidy is authorized until the child reaches the age of 21, providing that the parent remains legally responsible for the support of the child and provides any support for the child. In the case of a child who was eligible for Title IV-E Adoption Assistance as a hard-to-place child, federal adoption assistance must end at age 18. State Adoption Subsidy (maintenance only) must be authorized until the child reaches the age of 21, providing the parent remains legally responsible for the support of the child and provides any support for the child.
3. A child who had a pre-existing condition or disability that was unknown to the adoptive parents before adoption finalization is eligible for State Adoption Subsidy. A physician must certify that the condition or disability existed before finalization.
4. In cases where the adoptive parents died and the child is receiving federal adoption assistance, the adoption maintenance subsidy payments must continue as State Adoption Subsidy to the legal guardian of the child, the adoptee between the ages of 18 and 21 or a representative payee designated by the social services district for an adoptee between the ages of 18 and 21 until the child reaches the age of 21.

[Authorization and Review of State Adoption Subsidy](#)

The State Adoption Subsidy and adoption services must be authorized on WMS.

There is no required annual review of the parents' or child's income in order to continue the State Adoption Subsidy. Once eligibility has been established, it does not need to be re-determined and the child remains eligible for subsidy payments until the age of 21. Payments must be discontinued if the social services district determines that the adoptive parent(s) is no longer responsible for the support to the child or the parent is no longer providing any support for the child. Parents who receive State Adoption Subsidy payments have a responsibility to keep the State or local agency informed of circumstances that would make them ineligible for the State Adoption Subsidy payments.

[Medical Assistance for Non-Title IV-E Eligible Child](#)

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) extends MA eligibility to children who are handicapped and not eligible for Title IV-E Adoption Assistance, without regard to the income and resources of the adoptive parents.

► **Medical Assistance Under COBRA**

For a non-Title IV-E eligible child, the worker should determine whether the child is eligible for MA under the COBRA provision because the child has special medical or rehabilitative needs that would make placement for adoption without MA coverage difficult. To qualify under this provision, the child must have been in receipt of or eligible for MA in the three-month period before the Adoption Subsidy Agreement is signed.

There is no review of the parents' or child's income or resources in order to continue MA (that is, when eligibility for MA is provided under the provisions of COBRA).

Upon the death of the adoptive parents of a child who is handicapped and is receiving the State Adoption Subsidy and COBRA MA, the child will continue to receive COBRA MA.

► [State Medical Subsidy](#)

If a child who is handicapped is eligible for State Adoption Subsidy but is not eligible for MA under Title IV-E or COBRA, the child is eligible for the State Medical Subsidy. The State Medical Subsidy is also available for a child who is hard-to-place and is not MA eligible and is being adopted by parents who are within five years of mandatory retirement age, or age 62 or older. The child may receive the State Medical Subsidy up to age 21 providing that the parent remains legally responsible for the support of the child and provides any support for the child. 18 NYCRR 421.24(e) states that when a child is eligible for the State Medical Subsidy, the responsible district must make payments for medical care, services and supplies as may be authorized under the State's program of Medical Assistance and cannot exceed the schedule of payment for such or other services. Claims are submitted to the district, and at the discretion of the district, payment may be made directly to the parent or the provider.

Upon the death of the adoptive parents of a child who is receiving the State Medical Subsidy, such payment must continue to the legal guardian of the child until the child reaches the age of 21. In the case of an adoptee between the age of 18 and 21, payment is made to the legal guardian of the adoptee, to the adoptee or to a representative payee designated by the social services district. (See Appendix B for a description of the eligibility criteria for the State Medical Subsidy.)

There is no review of the parents' or child's income or resources in order to continue the State Medical Subsidy. Parents have a responsibility to keep the district or the State informed if they are no longer responsible for the child's support or providing any support for the child.

[Steps in Determining Eligibility](#)

Prior to the time the adoption petition is filed and prior to submitting an application for an adoption subsidy, complete the Adoption Assistance Eligibility Checklist (LDSS-3912) for *every* child being considered for adoption assistance. Using the Checklist, the first step in an adoption case is to determine eligibility for Title IV-E Adoption Assistance funding. If it is determined that the child is not eligible for Title IV-E funding, staff must continue to review the case to determine eligibility for the State Adoption Subsidy.

After completion of the Checklist (LDSS-3912), the Adoption Subsidy Agreement (LDSS-4623) must be completed and signed by all parties before the adoption is finalized. This is a required step for the child's case to be eligible for Title IV-E reimbursement or State Adoption Subsidy payments. The Adoption Subsidy Agreement is a written agreement between the adoptive parents and the social services district or a voluntary authorized agency, and approved by OCFS (unless

OCFS has granted the social services district the authority to finally approve the adoption subsidy agreement), specifying the nature and amount of assistance to be given.

In cases where the adoptive parents become aware of a pre-existing condition or disability that was unknown to them prior to the finalization of the adoption, a subsidy application may be submitted following finalization of the adoption. Such a subsidy is not eligible for Title IV-E Adoption Assistance.

The amount of the Title IV-E Adoption Assistance or the State Adoption Subsidy payment is based on the circumstances and condition of the child and determined through the agreement. No means test can be used to determine eligibility of the adoptive parents for payment. However, states can consider the adoptive parents' income in determining the *amount* of the payment. In New York State, between 75 and 100 percent of the foster care board rate may be paid contingent on the income of the adoptive parents. Payment amounts may be adjusted periodically if circumstances change, with the concurrence of the adopting parents, local district and OCFS. The rate of payment must be increased whenever the applicable foster board rate increases or whenever the change in the age of the adoptive child qualifies the child for an increased rate. The adoption assistance payments may not exceed the foster care maintenance payments that would have been paid had the child been in a family foster home.

Responsible District/County

Federal adoption maintenance assistance or State maintenance and Medical Subsidy payments must continue for a child who moves to another county, another state, the District of Columbia or the Commonwealth of Puerto Rico. The placing district (county of origin) is responsible for making the maintenance payments. The following charts provide detailed information on the cross-jurisdictional responsibility for the provision of medical assistance and the State Medical Subsidy for children adopted with subsidy.

For adoption subsidy agreements entered into on or after October 1, 1983, if a needed service specified in the adoption subsidy agreement is not available, Title IV-E requires that the State making the original adoption subsidy agreement remains financially responsible for providing the specific service(s).

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Adoption: Medicaid/State Medical

Title IV-E Adoption Assistance			
Situation		Medical Implications	WMS Implications
Adoption Assistance Maintenance*		County of origin maintains Medicaid	Medicaid non -services case type 20
	Family moves out of county of origin	County of origin continues to be responsible for Medicaid	
	Family moves out of NYS	New state is responsible for Medicaid	Close case
	Family moves into NYS	NYS county of residence is responsible for Medicaid	Medicaid non -services case type 20
Adopted child comes into foster care	Child placed in foster care in same county that pays subsidy	County of origin: <ul style="list-style-type: none"> •Closes Medicaid for Adoption Subsidy case •Conducts Title IV -E foster care eligibility determination •Opens Medicaid/Foster Care case 	Medicaid non -services case type 13 or 20
	Child placed in foster care in different county that pays subsidy	County of origin closes Medicaid for Adoption Subsidy case. New county: <ul style="list-style-type: none"> •Conducts Title IV -E foster care eligibility determination •Opens Medicaid/Foster Care case 	
	Adopted child comes from out -of -state	NYS county with legal custody of the child: <ul style="list-style-type: none"> •Conducts Title IV -E foster care eligibility determination •Opens Medicaid/Foster Care case 	

****County of origin continues to be responsible for the maintenance subsidy in all scenarios above.***

Non-Title IV-E: State Adoption Subsidy			
Situation	Medical Implications	WMS Implications	
Adoption Subsidy Maintenance*	Handicapped child	<ul style="list-style-type: none"> •Follow Medicaid eligibility instructions on pp. 4-4 through 4-5 of Eligibility Manual. •If child does not qualify, child may be eligible for a State Medical Subsidy. 	Medicaid non-services case type 20 OR Services POS line 77
	Hard-to-place child	<ul style="list-style-type: none"> •Not categorically eligible for Medicaid; •May be financially eligible for Medicaid; •May be eligible for the State Medical Subsidy if adoptive parents are age 62 years/older or subject to mandatory retirement within 5 years of adoptive placement. 	Service POS line 77
	Family moves out of county of origin	County of origin continues to be responsible for Medicaid/Medical Subsidy (depending on medical coverage provided in Subsidy Agreement)	Medicaid non-services case type 20 OR Services POS line 77
	Family moves out of NYS	County of origin remains responsible for Medicaid/Medical Subsidy (depending on medical coverage provided in Subsidy Agreement)	
	Family moves into NYS	State of origin is responsible for health care.	
Adopted child comes into foster care	Child placed in foster care in same county that pays subsidy	<ul style="list-style-type: none"> •Close Medicaid for Adoption Subsidy case or suspend Medical Subsidy •Conduct Title IV-E foster care eligibility determination •Open Medicaid/Foster Care case 	Medicaid non-services case type 13 or 20
	Child placed in foster care in different county from the one that pays subsidy	County of origin: <ul style="list-style-type: none"> •Closes Medicaid for Adoption Subsidy case or suspends Medical Subsidy New County: <ul style="list-style-type: none"> •Conducts Title IV-E foster care eligibility determination •Opens Medicaid/Foster Care case 	
	Adopted child comes from out-of-state	NYS county with legal custody of the child: <ul style="list-style-type: none"> •Conducts Title IV-E foster care eligibility determination •Opens Medicaid/Foster Care case 	

*** County of origin continues to be responsible for the maintenance subsidy in all scenarios above.**

3. [Nonrecurring Adoption Expenses](#)

The Title IV-E Adoption Assistance program also authorizes federal matching funds for states to pay one-time adoption expenses of parents of adopted children with special needs (regardless of ADC or SSI eligibility). To be eligible, the child must have special needs.

Social services districts must make payments for nonrecurring adoption expenses incurred by or on behalf of the adoptive parents. [See Section 453-a of the SSL and 18 NYCRR 421.24(d).] Such expenses must be directly related to the legal adoption of a child with special needs when the child was adopted through an authorized agency. The child does not need to be Title IV-E, ADC or SSI eligible for reimbursement. The local district makes the payment either to the adoptive parents directly, to the authorized agency on behalf of the adoptive parents, or to an attorney on behalf of the adoptive parents. Qualified adoption expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the adoption of a child with special needs. Reimbursement is limited to \$2,000 per adoption.

The Agreement for Nonrecurring Adoption Expenses (LDSS-4623-A) is a written agreement between the adoptive parents and the social services district or a voluntary authorized agency, and approved by OCFS, specifying the nature and amount of assistance to be given. The case information section of the agreement must be completed, and the agreement must be signed by all parties before the adoption finalization. The section for recording all nonrecurring expenses being claimed must be completed and submitted along with the agreement and necessary documentation within two years of finalization.

4. [WMS System Instructions](#)

Cases found eligible for Title IV-E Adoption Assistance or the New York State Adoption Subsidy must be opened in the Welfare Management System (WMS) to assure that appropriate program and administrative costs are authorized and reimbursed by the State and/or federal government. They should be indicated as such on the Checklist.

After freeing/Prior to finalization:

Open the WMS services case with the child as a family of one.

- If the child has been determined to be Title IV-E eligible, enter eligibility code 02.
- If the child is SSI eligible, enter eligibility code 06 (SSI-Blind) or 07 (SSI-Disabled).
- If the child is neither Title IV-E eligible nor SSI eligible, enter eligibility code 08 (MA) (*see below*) or 14 (eligibility to be determined by income Non-categorical).

To provide Medical Assistance prior to finalization, i.e., while the child is still in foster care, you must open a WMS non-services case.

- If the child is Title IV-E eligible, open a non-services case type 13 for medical coverage.
- If the child is not Title IV-E eligible but is SSI eligible, open a non-services case type 22 for medical coverage.
- If the child is neither Title IV-E nor SSI eligible, determine the child's eligibility for Medical Assistance under the COBRA provision. If the child is eligible for Medical Assistance, enter eligibility code 08 for the services case, and open a non-services case type 20.

When the adoption has been finalized:

- Close the WMS services case and the non-services case types 13, 20, or 22. The reason for closing the WMS services case should be either reason code 573 (Adoption Subsidized) or reason code 574 (Adoption Not Subsidized).
- If Title IV-E Adoption Assistance is to be provided after finalization, open a WMS services case with the child as a family of one, use a new WMS services case number, and use the child's adoptive name, SSN, and a new CIN. If the child is Title IV-E eligible, enter eligibility code 02. If the child is SSI eligible, enter eligibility code 06 (SSI-Blind) or 07 (SSI-Disabled). Enter direct service code 01 and POS code 52 (7/1/87-present) or 55.*
 - To provide Medical Assistance, open a non-services case. If the child is Title IV-E eligible, open a non-services case type 20. If the child is SSI eligible, open a non-services case type 22.
- If the State Adoption Subsidy (Maintenance) is to be provided after finalization, open a WMS services case with the child as a family of one, use a new WMS services case number, and use the child's adoptive name, SSN, and a new CIN. Enter eligibility code 14 (eligibility to

* POS code 55 is for adoptions finalized after 9/30/80 and before 7/1/87.

be determined by income Non-categorical). Enter direct service code 01 and POS code 52 (7/1/87-present) or 55.*

- o If the child is neither Title IV-E nor SSI eligible, determine the child’s eligibility for Medical Assistance under the COBRA provision. If the child is eligible for Medical Assistance under COBRA, enter eligibility code 08-MA, and open a non-services case type 20.
- o If the child is eligible for the State Medical Subsidy, only open a services case. Enter eligibility code 14 (eligibility to be determined by income Non-categorical) and enter direct service code 01 and POS code 77 (State Medical Subsidy).

The chart below summarizes appropriate coding of the “Eligibility,” “Direct Services,” and “Purchase of Services (POS)” fields of WMS for post-finalization services and case type for non-services cases.

POST-FINALIZATION—SERVICES AND NON-SERVICES CASES				
Eligibility Category	EL Code	Direct Services Code	POS Coding	Non-Services Case Type
Title IV-E and Medical Assistance	02 (IV-E) or 06 (SSI- Blind); 07 (SSI- Disabled)	01	52 or 55	20 (IV-E) 22 (SSI)
State Adoption Subsidy only	14	01	52 or 55	NA
State Adoption Subsidy and MA (COBRA)	08	01	52 or 55	20
State Adoption Subsidy and State Medical Subsidy	14	01	52 or 55, and 77	NA

Reauthorizing Subsidy/MA:

If the post-finalization adoption assistance to be provided is for an adoption subsidy only, then the WMS services case can be authorized for 12 months rather than six months, and reauthorized every 12 months thereafter. Likewise, the case must be authorized for MA on WMS, and reauthorized every 12 months thereafter.

When the child reaches age 18:

If Title IV-E Adoption Assistance is being paid on behalf of a child who is hard-to-place, the eligibility code 02 must be changed on the child’s 18th birthday to either 14 or 08, as appropriate. The WMS Anticipated Future Action (AFA) report can be used as a reminder for this activity. System-generated AFA code 105 (Individual turns 18) will be listed for each child turning age 18 years.

* POS code 55 is for adoptions finalized after 9/30/80 and prior to 7/1/87.

5. [Instructions for Completing the Adoption Assistance Eligibility Checklist](#)

Instructions for completing the Adoption Assistance Eligibility Checklist (LDSS-3912) are presented in the following pages. The organization of the instructions corresponds to the organization of the Checklist. It is recommended that you place these instructions beside the Checklist as you complete the Checklist. (*See Appendix A for a sample copy of the Checklist.*)

The symbol → indicates a direction to enter information. When necessary, the directions are followed by an *Explanation* of the item and the *Documentation* required for the item.

Remember to complete a separate Checklist for each child being considered for adoption. Complete the Checklist for *every* child being considered for adoption assistance eligibility.

Note: It is strongly recommended that all documentation be attached to the Checklist. It is also recommended that the Checklist with the attached documentation be kept in a separate, identified section of the case record that is maintained for categorical eligibility purposes.

<p>Section I. Case Information</p>	<p>→ Enter Child’s Name (Last, First, Middle Initial); Agency Name and Address; Unit/Worker Number; Date of Birth (DOB); Child’s Client Identification Number (CIN)); and Case Number.</p> <p>Explanation: Use the most accurate data available for entering information. The WMS FA/SN clearance (if available) contains reliable demographic data. See also court documents for date of birth. Note: For CIN and case number, use pre-finalization information except in cases of post-finalization applications.</p>
<p>Section II. Title IV-E Adoption Assistance Eligibility</p> <p>Section II. Title IV-E Adoption Assistance Eligibility</p>	<p>Child Must Meet All Requirements Below for Title IV-E Adoption Assistance Eligibility:</p> <p>1. Age. Is the child under the age of 18?</p> <p>→ Check YES if the child is under the age of 18.</p> <p>→ Check NO if the child is not under the age of 18. ☞ Go to Section III, State Adoption Subsidy Eligibility.</p> <p>Explanation: Title IV-E Adoption Assistance is allowed up to the child’s 18th birthday and may be continued only if it is determined that the child has a handicapping condition that warrants continuation beyond age 18, and then only to the child’s 21st birthday. The payments must continue as long as the adoptive parent remains legally responsible for the support of the child and provides any support for the child.</p> <p>In cases where federal reimbursement is lost at age 18 as a result of the handicapping condition not warranting continued payment to age 21, a State reimbursable adoption subsidy must be authorized until the child attains the age of 21, providing that the parent remains</p>

<p>Section II. Title IV-E Adoption Assistance Eligibility <i>(continued)</i></p>	<p>→ Check the box if the child has been registered with NYSAS.</p> <p>→ Check the box if the child has developed significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child or the child is placed for adoption with a relative. Enter the date of placement with foster parents or relative.</p> <p>→ Check YES if all boxes (a, b, and c) have been checked.</p> <p>→ Check NO if none of the above boxes (a, b, or c) have been checked. ☞ Go to Section III, State Adoption Subsidy Eligibility.</p> <p>Explanation: Box a. 1) The State has determined that the child can not return to his or her home through a termination of parental rights proceeding, a surrender or other court proceeding concluding that the child cannot be returned to his or her parent. Box b. The child meets the criteria of a child with special needs, as outlined in 18 NYCRR 421.24(a)(2) and (a)(3)(ii) or (iii) (<i>see Appendix B for Adoption Definitions</i>). Box c. The State must determine that a reasonable, but unsuccessful, effort to place the child with appropriate parents without providing adoption assistance has been made (e.g., adoption exchanges, referral to specialized adoption agencies). The only exception is when it would not be in the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents or the child is placed for adoption with a relative.</p> <p>Documentation: Box a. 1) A copy of the court order terminating parental rights, signed surrender, or Article 10 order where birth parents are deceased. Box b. Family Assessment and Service Plan (FASP) documentation showing that the child meets the criteria of a child with special needs. Box c. FASP documentation listing the specific factor(s) making the child difficult to place and describing the efforts to place the child for adoption without providing assistance or that explains significant emotional ties with the prospective foster adoptive parent(s) or placement for adoption with a relative.</p> <p>3. Financial Need. Does the child meet the requirements of financial need?</p> <p>☞ <i>Check below the factors that apply (<u>one</u> box must be checked to meet Title IV-E eligibility requirements.)</i></p> <p>→ Check the box if at the time of the child’s removal from his/her home the child received, or would have been eligible to receive, ADC in accordance with program rules in effect on 7/16/96.</p> <p>→ Check the box if the child is eligible to receive SSI benefits at the time the adoption petition is filed.</p>
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<p>Section II. Title IV-E Adoption Assistance Eligibility <i>(continued)</i></p>	<ul style="list-style-type: none"> → Check the box if the child was previously adopted and received Title IV-E Adoption Assistance, but the adoption subsequently dissolved or the adoptive parent(s) died. → Check the box if the child is a child of a minor parent in foster care who is receiving Title IV-E foster care payments that cover both the minor parent and the child at the time the adoption petition is filed. → Check the box if a fair hearing has determined that adoption assistance was wrongfully denied. → Check YES if any of the above boxes are checked. ☛ Go to Section IV, Eligibility Summary → Check NO if none of the above boxes are checked. ☛ Go to Section III, State Adoption Subsidy Eligibility. <p><i>Explanation:</i> To meet the requirements of financial need, a child with special needs: 1) would have been ADC-eligible in the home from which he/she was removed at the time of removal (not necessarily during the entire period of foster care placement); or 2) would have been SSI-eligible at the time the adoption petition is filed (regardless of how the child was removed); or 3) was previously adopted and was receiving Title IV-E Adoption Assistance, but the adoption dissolved or the adoptive parent(s) died and the child returns to foster care; * or 4) the child is a child of a minor parent in foster care who is receiving Title IV-E foster care payments that cover both the minor parent and the child at the time the adoption petition is filed (Title IV-E adoption assistance, including an expanded subsidy amount, is available to cover the needs of an otherwise eligible minor parent when the parent is being adopted and her infant or child remains in her custody and lives with her in the adoptive home); or 5) a fair hearing has determined that adoption assistance was wrongfully denied.</p> <p><i>Documentation:</i> Initial Foster Child Eligibility Checklist (LDSS 4809) output showing Title IV-E categorical eligibility or ADC eligibility and relevant back-up documentation for that eligibility, or letter from SSA or copy of check confirming receipt of SSI benefits; copies of the surrender, notification from the court of the TPR or the death certificate of the adoptive parent(s) and a copy of the county’s record that the child previously received Title IV-E Adoption Assistance; WMS screen print showing that the minor parent receives Title IV-E foster care payments; or the fair hearing determination that the adoption assistance was wrongfully denied.</p>
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* Title IV-E Adoption Assistance continues if and when the child is readopted.

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STATE ADOPTION SUBSIDY ELIGIBILITY:

☞ *Check below the factors that apply (one box must be checked in 1 and 2.)*

1. **Age.** Is the child is under the age of 21 and guardianship and custody were transferred prior to the age of 18?

→ Check YES if the child is under the age of 21.

→ Check NO if the child is older than the age of 21.
(Child is ineligible for State Adoption Subsidy.)

☞ *Go to Section IV 2, Eligibility Summary.*

2. **Special Needs (handicapped or hard-to-place).** Does the child meet the criteria of 18NYCRR 421.24 (a)(2) or (3) as either handicapped or hard-to-place?

→ Check the box if the child meets the definition of handicapped and is not eligible for Title IV-E Adoption Assistance.

→ Check the box if the child meets the definition of hard-to-place and is not eligible for Title IV-E Adoption Assistance.

→ Check the box if the child has a pre-existing condition or disability unknown to the adoptive parents before finalization.

→ Check YES if the YES box is checked in 1 and any of the above boxes in 2 are checked. (Child is eligible for State Adoption Subsidy.)

☞ *Go to Section IV 1, Eligibility Summary.*

→ Check NO if the NO box is checked in 1 and none of the above boxes are checked in 2. (Child is ineligible for State Adoption Subsidy.)

☞ *Go to Section IV 2, Eligibility Summary.*

Explanation:

To meet the eligibility requirements of State Adoption Subsidy, a child: 1) must meet the definition of handicapped and not eligible for Title IV-E Adoption Assistance; or 2) must meet the definition of hard-to-place and not eligible for Title IV-E Adoption Assistance; or 3) has a pre-existing condition or disability unknown to the adoptive parents before finalization (a physician must certify that the condition or disability existed prior to finalization). The condition or disability results in the child meeting the definition of a child who is handicapped in 18 NYCRR 421.24(a)(2).

Section III.
State Adoption
Subsidy
Eligibility
(continued)

	<p>For the child who is handicapped and not eligible for Title IV-E, a determination must be made of the child's eligibility for MA under COBRA. If the child who is handicapped is ineligible for COBRA (MA), the child must receive the State Medical Subsidy. The State Medical Subsidy is only available for a child who is hard-to-place and is not eligible for Title IV-E and who is being adopted by parents who are within five years of mandatory retirement age, or age 62 or older.</p> <p>Documentation:</p> <p>1) Medical documentation of the child's handicap, Initial Foster Care Eligibility Checklist (LDSS 4809) or copy of the completed Automated Eligibility Worksheet showing that the child is <i>ineligible</i> for Title IV-E or SSI and relevant supporting documentation; 2) Surrender or TPR document indicating freed date and a copy of the signed Adoption Placement Agreement (APA); FASP information documenting that the child is a member of a sibling group or a member of a minority group over represented in the NYS foster care system; the prospective adoptive parents' birth certificate or documentation from the prospective adoptive parents' place of employment showing that there is a mandatory retirement age; 3) Certification from a physician indicating a pre-existing condition.</p>
<p><u>Section IV. Eligibility Summary & Signatures/ Supervisor's Review</u></p> <p>Section IV. Eligibility Summary & Signatures/ Supervisor's Review (continued)</p>	<p>1. Adoption Subsidy Agreement. Was the Adoption Subsidy Agreement (LDSS- 4623) signed by all parties before the final decree of adoption (except in the case of a post finalization application)?</p> <ul style="list-style-type: none"> → Check YES if the Adoption Subsidy Agreement was signed by all parties on or before the final decree of adoption. Enter the date of the Adoption Subsidy Agreement and the date of finalization. → Check NO if the Adoption Subsidy Agreement was not signed by all parties before the final decree of adoption. → Check Exception, post finalization application. <p>Explanation:</p> <p>The adoption subsidy agreement must be signed and in effect at the time of, or prior to, the finalization of the adoption for the agreement to be eligible for Title IV-E Adoption Assistance. Agreements executed after finalization are not eligible for Title IV-E Adoption Assistance payments except when a fair hearing determines that adoption assistance was wrongfully denied. Applications for the State Adoption Subsidy also must be executed before finalization of the adoption <i>except</i> in cases where adoptive parents first become aware of the child's physical or emotional condition subsequent to the adoption, which otherwise would qualify the child as handicapped and, a physician certifies that the condition existed prior to the adoption.</p> <p>Documentation:</p> <p>Adoption Subsidy Agreement signed by all parties before the final decree of adoption.</p> <ul style="list-style-type: none"> ☞ Complete systems instructions below.

<p><i>☞ See Section 4, WMS System Instructions, for eligibility categories and codes.</i></p> <p><i>☞ See Section 4, WMS System Instructions, for eligibility categories and codes.</i> <i>(continued)</i></p>	<p>2. Eligibility and System Instructions Information must be entered on WMS:</p> <ul style="list-style-type: none"> → Check the ELIGIBLE FOR TITLE IV-E ADOPTION ASSISTANCE AND MA box if the child is eligible for Title IV-E Adoption Assistance and MA. Encode child 02, 06 or 07 (eligibility code); 01(direct service code); 52 or 55 (POS); and open non-services case using case type 20 or 22. → Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY box if the child is only eligible for the State Adoption Subsidy. Encode child 14 (eligibility code for the State Adoption Subsidy without MA); 01 (direct service code); 52 or 55 (POS). → Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY and MA (COBRA) box if the child is eligible for both the State Adoption Subsidy and MA under COBRA. Encode child 08 (eligibility code for the State Adoption Subsidy and MA); 01 (direct service code); 52 or 55 (POS); and open non-services case using case type 20. → Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY AND STATE MEDICAL SUBSIDY box if the child is eligible for both the State Adoption Subsidy and the State Medical Subsidy. Encode child 14 (eligibility code for the State Adoption Subsidy without MA); 01 (direct service code); 52 or 55 and 77 (POS). → Check the INELIGIBLE FOR TITLE IV-E ADOPTION ASSISTANCE AND STATE ADOPTION SUBSIDY box if the child is not eligible for either Title IV-E Adoption Assistance or the State Adoption Subsidy. → Sign and enter the date. → Obtain the supervisor’s signature and date.
<p><u>Section V. Documentation of Eligibility</u></p>	<p>Section V is designed to allow a recording of what documentation was secured for both Title IV-E Adoption Assistance and the State Adoption Subsidy. For cases found eligible for Title IV-E or the State Adoption Subsidy, items 1-7 should be completed by noting the document(s) used to support each element of the criteria and where in the case record documentation can be found.</p> <p>→ List the documentation used for each item. Documentation for items 1 – 4 are listed above in these Instructions.</p> <p>For item 5, COBRA MA, documentation includes: Medical documentation of the child’s handicap, Initial Foster Child Eligibility Checklist (LDSS-4809), documentation from SSA, or a copy of the completed Automated Eligibility Worksheet showing that the child is <i>ineligible</i> for Title IV-E or SSI.</p> <p>For item 6, State Medical Subsidy, documentation includes: for</p>

	<p>children who are handicapped, documentation of handicapping condition; for children who are hard-to-place: the prospective adoptive parent’s birth certificate or documentation from the prospective adoptive parent’s place of employment showing that there is a mandatory retirement age.</p> <p>For item 7, a signed copy of the Adoption Subsidy Agreement.</p> <p>Enter the location of all documentation in the case record; or check the box if attached to the Checklist.</p> <p><i>Explanation:</i> It is strongly recommended that all documentation be attached to the Checklist. It is also recommended that the Checklist with the attached documentation be kept in a separate, identified section of the case record that is maintained for categorical eligibility purposes.</p>
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