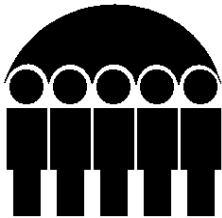


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Employees' Manual
Title 13
Chapter B

DETERMINING TITLE IV-E ELIGIBILITY



Iowa
Department
of
Human Services

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INTRODUCTION

This chapter explains the criteria for and process of determining eligibility for foster care and subsidized adoption benefits under Title IV-E of the Social Security Act, which establishes:

- ◆ The Foster Care and Adoption Assistance programs for certain children who receive foster care services or subsidized adoption.
- ◆ Requirements for the states to follow in administration and operation to receive federal support under the programs.

The Title IV-E Foster Care Assistance program's purpose is to help states provide proper care for children who need temporary placement outside their homes in a foster family home or group care facility. This program is an open-ended entitlement program that provides funds to assist states with the costs of foster care maintenance for eligible children.

The Title IV-E Adoption Assistance program is designed to assist states in finding adoptive homes for children with special needs and thus prevent long, inappropriate stays in foster care. This program provides funds to states to assist in:

- ◆ Maintenance costs for adopted children with special needs (e.g., children who are older, members of a minority or sibling group, or physically, mentally, or emotionally disabled).
- ◆ Reimbursement of nonrecurring expenses associated with the adoption of a child with special needs.

The Title IV-E program also provides funds to support staff training and administrative costs. Claims for administrative costs under Title IV-E help to pay for staff salaries, supplies, and related expenses. Programs for the training of new workers, continuous education of current workers, training for foster families, and training of staff in foster care facilities all benefit from funds provided through Title IV-E.

DHS must document a child's eligibility for these programs to receive federal reimbursement for state expenditures. If a child or DHS does not meet the requirements to claim IV-E funds, the child can receive the same foster care or adoption services. However, it means that less money is available to serve all children and families in Iowa. Federal financial participation in state expenditures is provided:

- ◆ At the Medicaid match rate of approximately 60% for foster care maintenance and monthly adoption subsidy payments.
- ◆ At a 50% match rate for related state administrative expenditures, such as time spent for case management and eligibility determination.
- ◆ At a 50% match rate for nonrecurring expenses of adoption.
- ◆ At 75% for related state training expenditures.

Another way of looking at the benefits of federal financial participation under Title IV-E is to consider its impact on the costs of foster care and adoption assistance in terms of children. For every five children in foster care who qualify for matching funds under title IV-E, enough state funds are saved to pay the expenses for three more children in the same type of setting.

This chapter will outline policy and procedure related to completing eligibility determinations related to both IV-E Foster Care and Adoption Assistance. The chapter begins by discussing the criteria for IV-E foster care assistance. This policy discussion distinguishes between:

- ◆ IV-E foster care requirements considered at the time the child enters foster care; and
- ◆ IV-E foster care requirements considered on an on-going basis throughout the child's time in foster care.

These sections are followed by a section that discusses current IV-E foster care assistance procedures, including an overview of tasks to be completed in certifying eligibility, the frequency, and the responsibility for those tasks.

The latter part of this chapter is focused on adoption assistance. Again, a detailed discussion of the adoption assistance requirements is followed by a brief discussion of the procedures required to certify eligibility for a child.

Legal Basis

Federal statutes and regulations affecting states' provision of child welfare services and eligibility for Title IV-E funds include:

- ◆ United States Code, Title 42, "The Public Health and Welfare," Chapter 7, "Social Security," Subchapter IV, "Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services":
 - Part A, "Aid to Families with Dependent Children" (Title IV-A of the Social Security Act), Sections 602 and 606(a) as of July 16, 1996.
 - Part B, "Child and Family Services" (Title IV-B of the Social Security Act), Section 620.
 - Part E, "Federal Payment for Foster Care and Adoption Assistance" (Title IV-E of the Social Security Act), Sections 670 through 679A, specifically 671(a)(15), 672(a)(1), 672(a)(2), 672(a)(4), 672(b), 672(c), 673(a)(2)(C), and 673.
- ◆ Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980.
- ◆ Public Law 99-514, the Tax Reform Act of 1986.
- ◆ Public Law 100-203, the Omnibus Budget and Reconciliation Act of 1987.
- ◆ Public Law 103-432, the Social Security Act Amendments of 1994.
- ◆ Public Law 104-188, the Small Business Job Protection Act of 1996.
- ◆ Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
- ◆ Public Law 105-89, the Adoptions and Safe Families Act.
- ◆ Public Law 106-169, the Foster Care Independence Act of 1999.
- ◆ Title 45 of the Code of Federal Regulations, Parts 205, 206, 232, 233, and 302, as of July 16, 1996, for AFDC, and Parts 1355, 1356, and 1357, for IV-B and IV-E.

Iowa Code Chapter 217 establishes the purposes and general duties of the Department of Human Services. The Department's authority to administer child welfare programs is found in Iowa Code Chapter 234, section 6. Laws governing the jurisdiction and authority of the court over children and family situations are found in Iowa Code Chapter 232.

Rules related to the administration of the Iowa's adoption subsidy program can be found in 441 Iowa Administrative Code 201.

Among other requirements, federal law requires the determination of a child's eligibility under Title IV-E be based upon the Aid to Families with Dependent Children (AFDC) program according to 42 U.S. Code 672(a)(4).

The AFDC program for cash assistance was discontinued following the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, a "look back" provision was created for IV-E, which now requires states to make determinations based on the AFDC program as it existed on July 16, 1996, although many of the state and federal laws and regulations governing the AFDC program are no longer in effect.

Iowa Code Chapter 239, as it existed on July 16, 1996, established provisions for the "Family Investment Program" (FIP), Iowa's Aid to Families with Dependent Children (AFDC) program. The rules DHS adopted to administer the AFDC program in Iowa, as they existed on July 16, 1996, include:

- ◆ 441 Iowa Administrative Code Chapter 40, "Application for Aid," Division I, "Family Investment Program - Control Group."
- ◆ 441 Iowa Administrative Code Chapter 41, "Granting Assistance," Division I, "Family Investment Program - Control Group."

Definitions

"**Aggravated circumstances**" means conditions or facts used by the court to determine whether waiving of reasonable efforts to prevent placement or reunify the child with the parents is in the best interest of the child. Specific situations are defined in federal regulations and Iowa Code. See **Aggravated Circumstances** for more detail.

“**Constructive removal from the home**” means that:

- ◆ The court has ordered the child removed from the parent, guardian, or custodian or the parent or guardian has signed a voluntary placement agreement; and
- ◆ The child is not living with that same parent, guardian, or custodian at the time of the court order or voluntary placement agreement.

“**CPW**” means child protective worker, a person designated by the Department to perform an assessment in response to a report of child abuse.

“**CTW/BI**” is an acronym for one of the judicial determinations required for Title IV-E eligibility. The court must make a determination that it is contrary to the welfare of the child to remain in the home or that it is in the child’s best interests to be removed from the home. The court order does not have to contain the exact words, but must convey this idea.

“**DHS**” or “**Department**” means the Iowa Department of Human Services.

“**Episode of out-of-home care**” means the period of time a child spends in temporary placements away from the child’s permanent home. An episode of out-of-home care starts when a child is removed from the home of the child’s parent or guardian by order of the court or through a voluntary placement agreement. An episode ends when:

- ◆ The child is returned to their parent, guardian, or permanent home and the court relieves the state of the responsibility to supervise the placement; or
- ◆ Guardianship is transferred to another person and the court relieves the state of responsibility to supervise the placement; or
- ◆ Six months have elapsed since the child was returned to the parent or guardian or since the guardianship was transferred to another person, even if the court has not relieved the state of the responsibility for supervision.

“**JCO**” means juvenile court officer, an employee of Juvenile Court Services.

“**JCS**” means Juvenile Court Services.

“**IV-E agency**” means the state agency responsible for the administration of the programs authorized under Title IV-E of the Social Security Act. In Iowa, the Department of Human Services is the state agency designated responsible for administering these programs. This authorization extends to Juvenile Court Services through an interagency agreement that authorizes Juvenile Court Services to provide child welfare services.

“**Maximus SSI Advocacy Project**” is under contract to the Department to assist with applications for SSI benefits.

“**Out-of-home care**,” as used in this chapter is a general term to refer to out-of-home placements under the supervision of DHS or JCS. It is not limited to foster home placements, but also includes placements in other temporary out-of-home settings such as relatives, shelter, detention, group care facilities, and residential treatment centers.

“**Physical removal from home**” occurs when:

- ◆ The court orders the removal of the child from the child’s parent, guardian, or custodian or the parent or guardian signs a voluntary placement agreement; and
- ◆ The child is physically removed from that home at the time of the court order or voluntary placement agreement, or in the six months following.

“**Placement and care responsibility**” means court-ordered authority or the authority conveyed through a voluntary placement agreement to provide supervision of a child and a child’s placement. Having placement and care responsibility includes, but is not limited to, responsibility to make placement recommendations and the authority to make plans for a child, create permanency goals for the child, and arrange for services towards these goals.

Responsibility for placement and care may or may not include the transfer of custody to the Department or to JCS.

Children whose custody has been transferred from one parent to another parent are not considered as being in an out-of-home placement even if the Department has been ordered to provide supervision, except when the placement is made on a trial basis.

“**Preponderance of evidence**,” for purposes of this chapter, means that available evidence is supportive of a conclusion of financial need, and there is no substantiated evidence that would contradict this conclusion.

“**RE1**” is an acronym for the judicial determination required for Title IV-E initial eligibility. The court must make a determination that indicates the IV-E agency (DHS or JCS) has made reasonable efforts to prevent the need for removal.

“**RE2**” is an acronym for the judicial determination required for Title IV-E on-going eligibility. The court must make a determination that indicates the IV-E agency has made reasonable efforts to finalize the permanency plan of the child.

“**Removal home**” means the household whose circumstances are evaluated in relation to the AFDC requirements to determine IV-E eligibility. The removal home is the home of the person who signed the voluntary placement agreement placing the child into care or who is designated by the court as the subject of the “contrary to welfare” determination. See **Removal From a Specified Relative** for more information.

“**Removal month**” means the month evaluated to determine if the removal household meets the AFDC requirements.

“**SWCM**” means social work case manager, the Department worker at the Social Worker 2 classification who administers social work case management.

“**Trial home visit**” means that a child who has been in out-of-home care:

- ◆ Has returned to a parent, a guardian, the home from which the child was removed, or another home when placement in that home is intended to become a permanent home for the child, but
- ◆ Remains under the placement and care responsibility of the Department.

A trial home visit extends the episode of out-of-home care for up to six months when a trial home visit is considered temporary and a step towards the child’s permanent plan.

“**VPA**” means voluntary placement agreement, an agreement between DHS or JCS and the child’s parent or legal guardian for placement of the child in out-of-home care.

OVERVIEW OF TITLE IV-E FOSTER CARE ASSISTANCE

The Title IV-E program provides federal reimbursement to states for a portion of the costs of children placed in foster homes or other types of out-of-home care under the responsibility of DHS through a court order or voluntary placement agreement. Title IV-E benefits are an individual entitlement for qualified children in out-of-home care. Each child must be individually determined to assess the level of reimbursement allowed.

There are two major concepts within the Title IV-E program: eligibility and “claimability.”

- ◆ The child’s initial eligibility is primarily based upon the legal authority for the child’s removal and the type of home from which the child was removed. These factors are considered for the time of the child’s removal only.
- ◆ The child’s ongoing eligibility is dependent upon the child continuing to meet certain criteria, which when no longer met, terminate the child’s eligibility for IV-E. These factors must be considered on an ongoing basis.
- ◆ The child’s claimability is based upon facts about the child’s situation that can change at any point in time and on certain procedural requirements that DHS must continue to meet. These factors must be considered on an ongoing basis, and temporarily suspend the child’s IV-E claims when they are not met.

Once a child is established as meeting the initial eligibility requirements for IV-E, the child’s status must be reviewed to ensure that the child continues to meet IV-E requirements. These reviews should be done annually, or more frequently in certain situations that will be discussed later. See **PROCEDURES FOR CHANGES AND REVIEWS OF ELIGIBILITY**.

Overview of IV-E Eligibility Factors

Eligibility for IV-E is dependent both on the characteristics of the child and family and on conditions the state must meet when removing a child from the home and taking responsibility for the child.

To be eligible for IV-E funding, a child must meet all of the requirements listed in **REQUIREMENTS FOR INITIAL ELIGIBILITY**. The child cannot be claimed to IV-E until all requirements discussed in this section are met. To continue receiving IV-E benefits, a child must continue to meet the requirements listed in **REQUIREMENTS FOR ONGOING ELIGIBILITY** at each eligibility review.

For children who meet both eligibility and claimability requirements, the federal government will reimburse a portion of the child’s maintenance costs as well as administrative and training costs.

When a child is in foster care, receives SSI, and meets all IV-E eligibility requirements, it is possible to claim IV-E for administrative and training costs although maintenance costs cannot be claimed. See **Administration and Training Funding and Medicaid for SSI Children** for additional information on when IV-E is applicable for administrative costs.

March 2000 Changes to Federal Regulations

Legal reference: 45 CFR 1356.21

Effective March 27, 2000, the U.S. Department of Health and Human Services released new regulations that change requirements for a child to be eligible for IV-E funding. Most significant to IV-E determinations, these changes involved a tightening of rules surrounding the required judicial determinations for cases that entered out-of-home care on or after the effective date of the requirements.

The table that follows summarizes the impacts of these changes. These requirements are explained in more detail in the corresponding sections in the remainder of the chapter.

Required Determination	Before March 27, 2000	After March 27, 2000
“Contrary to the welfare” or “best interests” (CTW/BI)	Must be made within six months of the date child was removed from the home by court order.	Must be documented in the first order that authorizes the removal of the child.
“Reasonable efforts to prevent removal” (RE1)	Can be documented in a court order at any time, but eligibility cannot begin until requirement is met. “Reasonable efforts to reunify” also acceptable to meet requirement.	Must be documented in a court order within 60 days of the date the child was removed from the home.
“Reasonable efforts were made to achieve permanency” (RE2)	First finding is due March <u>2001</u> , with subsequent findings at least once every 12 months thereafter.	First finding must be made within 12 months of removal and at least once every 12 months thereafter.

In addition to affecting the timing of judicial determination requirements, the March 2000 change in federal regulations apply a more restrictive definition to the requirements for child placements to be licensed or approved. This is discussed further in the **Claimable Placement** section later in this chapter.

REQUIREMENTS FOR INITIAL ELIGIBILITY

This section provides detailed explanations of the IV-E criteria applied in completing an initial determination of the child’s IV-E status. Most requirements considered at initial determination relate to the point in time when the child is first placed out of the home and the child’s episode of care begins.

| Other factors will also be considered that are examined on an ongoing basis. These requirements relate to the child’s current situation, rather than the circumstances surrounding the child’s removal from the home. The requirements considered at initial determination are summarized in the chart below, and discussed in more detail in the pages that follow.

Requirement	Type of Requirement	Explanation of Requirement
Legal authority	Initial eligibility	The removal of the child from the home must result from either a court order or voluntary placement agreement.
Court-ordered removal: Judicial language criteria	Initial eligibility	Language requirements: ♦ The court order for removal must contain “contrary to welfare/best interest” language. ♦ A court order within 60 days of removal must contain “reasonable efforts to prevent removal” language.
VPA removal: Judicial language criteria	Ongoing eligibility	The child can be initially eligible without any court language, but there must be a court order containing “contrary to welfare/best interest” language within 180 days of VPA for ongoing eligibility.

Requirement	Type of Requirement	Explanation of Requirement
Responsibility for placement and care	Initial eligibility, ongoing eligibility, or claimability, depending on situation	DHS or JCS must have initial (and continuous) responsibility for placement and care of the child, via court order or voluntary placement agreement.
Removal from a specified relative	Initial eligibility	The child must have lived in the “contrary to welfare”/removal home within six months of the removal month, and the removal home must be that of a specified relative.
AFDC relatedness	Initial eligibility	The child must meet AFDC requirements in the removal home at the time of removal including: <ul style="list-style-type: none"> ◆ Age ◆ Citizenship ◆ Deprivation ◆ Financial need
Claimable placement	Claimability	The child must be placed in a licensed, foster-care-type placement.
Child’s income and resources	Claimability	The child’s individual income and resources must be below the allowable limits.

Legal Authority and Judicial Language Criteria

Legal reference: 45 USC 672

The first Title IV-E eligibility criterion is that the child must be removed from the child’s home pursuant to a court order or voluntary placement agreement (VPA). Depending on the type of removal (court-ordered or voluntary), certain judicial determinations are required to establish the child’s eligibility for Title IV-E.

In addition, the child must be placed under the care and responsibility of DHS or JCS before being claimed. This section outlines the requirements related to:

- ◆ Determining the correct removal document
- ◆ Removal by court order
- ◆ Removal by voluntary placement agreement
- ◆ Responsibility for placement and care
- ◆ Documentation of judicial determinations required at initial determination

Determining the Correct Removal Document

Determining the correct removal document is a critical step because the IV-E requirements differ depending on the type of document that authorized the removal. In general, the removal document will be clear because it will be the same date (or within a few days of the date) the child is actually placed by DHS or JCS. However, this is not always the case, and provided there is reasonable explanation for the delay:

- ◆ The court order can be dated any time within the six months before or after the child leaves the child's home;
- ◆ The voluntary placement agreement can be any time within 90 days before or six months after the child leaves the home to enter out-of-home placement.

This section outlines some guidance for establishing the removal document and some confusing scenarios that are commonly encountered in that process.

Types of Court Orders

Several general types of court hearings take place in sequence in every court-involved child welfare case. The names and formats of the accompanying orders may vary from area to area and even within an area, depending on the judge. This fact means that determining the removal order is not always as simple as identifying the order by name.

Carefully read the order for any information that implies a placement or order preceding the current one. FACS *may* be helpful if it indicates the child was placed a significant amount of time before the available order. Investigate the possibility of a prior order in this situation.

Any documents containing a narrative history of the child’s situation could also indicate when the first order would logically have occurred. In general, if there is any discrepancy between when the child was placed and the date of the order available, obtain clarifying information before determining the case.

Understanding the sequence and types of orders that occur in different situations will provide some additional guidance. The court process is different for delinquency/JCO cases and for Child in Need of Assistance (CINA) cases. See the charts below for information about the types of hearings and orders that occur that in each type of case.

Delinquency/JCO Cases:

The chart below lists and describes the types of hearings and orders that occur for delinquency/JCO cases in the general sequence in which they occur.

Type	Description
Delinquency hearing and order for detention or shelter	After a child is arrested, a delinquency petition is filed and is followed by an order for detention or shelter. If this is the first order (there was no prior ex parte, pick-up order or warrant), and the child was ordered into out-of-home care, this is the order for removal.
Police pick-up order or warrant	A pick-up order or warrant is issued if a child commits a crime and police involvement is ordered to place the child in out-of-home care upon locating the child. This is the removal order if it is the first order authorizing the child’s placement in out-of-home care.
Adjudication hearing and order	An adjudication hearing in a JCO case is the criminal hearing to determine if the child is guilty or not guilty of the charges brought against the child. If a child had not yet been placed out of home and was found guilty, placement in out-of-home care could be ordered, making this the removal order. A child may be found guilty but allowed to remain at home.

Type	Description
Disposition hearing and order	A child adjudicated delinquent who was previously allowed to remain in the home could be ordered into out-of-home care by a disposition order if the judge determines it is necessary. If this is the first order authorizing the child's placement in out-of-home care, this is the removal order.
Review or modification	Reviews for adjudicated delinquents occur at least every six months for children in out-of-home care and at least every 12 months for children who remain in the home. Although not likely, it is possible for this to be the removal order.
Permanency hearing and order	<p>Permanency hearings must occur every 12 months from when a child is first placed in out-of-home care, but can occur more frequently. Since this always occurs after the child's removal from the home, this is not likely to be the removal order.</p> <p>A permanency order <i>might</i> be the removal order only if a child was on a trial home visit for more than six months, returned to out-of-home care, and this was the first order authorizing the child's placement back in out-of-home care.</p>
Termination of parental rights hearing and order	Also known as "TPR," this order severs the legal relationship between a parent and child. This is a necessary step toward the adoption of any child. Since TPR occurs only after a child has been in out-home-care for at least six months continuously, this will never be the removal order.
Commitment order	A mental health commitment order (often referred to as a "229 commitment") or a substance abuse commitment order may be the first order sanctioning removal. If so, it must contain a CTW/BI finding (for removals after 3/27/00). DHS/JCS may or may not be involved with the child/family at the time of the order.

Child in Need of Assistance (CINA) Cases:

The chart below lists and describes the types of hearings and orders that occur for CINA cases in the general sequence in which they occur.

Type	Description
Ex parte order	An ex parte order is issued on an emergency basis when there is no time to file a petition due to imminent danger to the child in the home. This is always the removal order, since it is the first order authorizing the child’s removal from the home.
Police pick-up order	A pick-up order is most likely issued when a child runs away. Use this as the removal order only if it is the <i>first</i> order authorizing the child’s placement in out-of-home care.
Removal hearing and order	If there was an ex parte order, a removal hearing must be held within ten days (unless waived). In this situation, although the order may be titled “Removal Order,” the ex parte order is the removal order for IV-E.
Adjudication hearing and order	An adjudication hearing pursuant to a CINA petition determines if the court can intervene in the child’s family. If this intervention is to place the child in out-of-home care, this is the first order authorizing removal from the home and is the removal order.
Disposition hearing and order	A disposition hearing occurs 45-60 days after the adjudication hearing to determine the appropriate services to offer the child. If the child had remained at home until this time but placement in out-of-home care is determined appropriate, this could be the first order authorizing removal from the home—the removal order.

Type	Description
<p>Review or modification hearing and order</p>	<p>Review hearings occur at least every six months for children in out-of-home care, and up to every 18 months for children at home with a CINA case. Additional reviews or modifications can occur more frequently if needed.</p> <p>These orders could order additional services, a child’s return home, or a child’s placement in out-of-home care. If this is the first order that authorized the child’s removal from the home, it could be the removal order.</p>
<p>Permanency hearing and order</p>	<p>Permanency hearings must occur every 12 months from when a child is first placed in out-of-home care, but can occur more frequently. Since this always occurs after the child’s removal from the child’s home, this is not likely the removal order.</p> <p>A permanency order <i>might</i> be the removal order only if a child was on a trial home visit for more than six months, returned to out-of-home care, and this was the first order authorizing the child’s placement back in out-of-home care.</p>
<p>Termination of parental rights hearing and order</p>	<p>Also known as “TPR,” this order severs the legal relationship between a parent and child. This is a necessary step toward the adoption of any child. Since TPR occurs only after a child has been in out-of-home-care for at least six months continuously, this will never be the removal order.</p>
<p>Commitment order</p>	<p>A mental health commitment order (often referred to as a “229 commitment”) or a substance abuse commitment order may be the first order sanctioning removal. If so, it must contain a CTW/BI finding (for removals after 3/27/00). DHS/JCS may or may not be involved with the child/family at the time of the order.</p>

Children with Multiple Out-of-Home Placements

A child may enter and leave out-of-home care multiple times. When considering the child's most recent removal and placement into out-of-home care, if the child had been home for less than six months, this could be a continuation of a previous out-of-home care episode rather than new episode of out-of-home care. See **Child in Home of Parent (Trial Home Visit)**.

Relative Placements

If the apparent start to a child's episode involves the removal of a child from a relative home following a court order, consider whether DHS was previously involved with supervising the placement based upon a previous court order.

If so, this is a change of placement and a continuation of the previous episode of out-of-home care rather than a new episode, and the eligibility determination would be based on the court order and removal household information in the month the child was placed with the relative.

Commitments

When a child is removed and placed by a commitment order (either a mental health commitment or a substance abuse commitment), this order is the first order that sanctions removal. For removals after March 27, 2000, this order must contain a CTW/BI finding. This is true regardless of whether DHS or JCS was involved at the time of the commitment order and placement. (Removals before March 27, 2000, have six months to obtain a CTW/BI finding.)

Initial Placement Before Court Order or VPA

Police and doctors have legal authority under Iowa law to place a child in certain out-of-home settings without a court order. After a short time (usually a few days) if the child is not returned home, DHS must seek a court order for continued placement of the child.

In this situation, it is the order for placement beyond the 48-hour period that should be considered the removal document for IV-E purposes. However, the child's episode begins at the time the doctor or police officer places a legal hold on the child, since the parent or guardian has no right to move the child.

In certain jurisdictions, judges issue a verbal order, typically in after-hours emergencies. When this occurs, the first written order that records or follows the verbal order should be considered the removal order for IV-E purposes. This written order will generally occur a few days after the child is actually removed from the home and placed in an out-of-home care setting.

For similar situations related to juvenile offenders, see **Juvenile Removals**.

1. On April 2, 2003, Elizabeth was brought to the emergency room with injuries severe enough to require her being admitted to the hospital. Dr. Smith and the hospital staff did not find the explanation provided by Elizabeth's mother to be credible, and, therefore, placed a hold on Elizabeth and contacted DHS.

After two days, DHS obtained an order authorizing Elizabeth's continued out-of-home placement. During this time, Elizabeth remained in the hospital. On April 5, Elizabeth was medically cleared for release and placed in a foster home.

Elizabeth's out of home placement began on April 2, although the court order authorizing her placement was not until April 4, and her placement into a foster home was not until April 5.

2. Charlie was born on May 4, 2003, and appeared healthy. DHS had previous involvement with Charlie's mother, and had asked the hospital to notify DHS when she gave birth. The hospital notified DHS on the day of Charlie's birth, but did not place a hold on Charlie since there were no medical grounds to do so.

On May 8, DHS filed for and received a court order authorizing Charlie's placement in foster care upon release from the hospital. On May 9, Charlie was medically cleared and placed into a foster home.

Charlie's out-of-home care episode began on May 9 when DHS placed Charlie in out-of-home placement pursuant to the court order.

Although DHS was aware of Charlie on May 4, Charlie's episode did not begin then because neither the hospital nor DHS had legal authority for Charlie's placement. The mother could have left with Charlie until the May 8 order was obtained.

Conditional (“Self-Executing”) Orders

DHS sometimes uses a conditional order to work with the family to prevent the removal of the child. A document that allows the child to stay in the home on a conditional basis cannot be considered the removal order for IV-E purposes.

If the child is placed after a conditional order and there is no court order at the time of removal, the next court order after the removal that addresses the removal must be used as the IV-E removal document. See the example below.

On May 14, 2002, the court issued an order granting supervision of Brian to DHS, but allowed Brian to remain with his mother, Bea. The court required that Bea attend outpatient drug treatment as a condition to prevent Brian’s removal.

On June 25, the Department received notice that Bea had discontinued outpatient treatment. The Department removed Brian and placed him in foster care based on the May 14 order. The next court date was July 10, 2002. At that hearing, the judge acknowledged that the mother had stopped attending treatment, necessitating his removal.

Because the May 14 order allowed Brian to remain in the home, it cannot be used as the “removal order” for IV-E. The order at the time of or after the removal, the order of July 10, must be considered the removal document in this scenario.

Group Care or Residential Placement

In general, the date of the removal document should closely correspond with the date of removal. However, in many cases when DHS facilitates the placement of children into group care or residential facilities, the date of the court order or voluntary placement agreement that authorized the removal can differ greatly from the actual date the child was placed out of the home.

Children are placed in group care facilities only when they require special treatment services. There are a limited number of spaces in such placements, and a bed may not be available for a child for a few weeks or months. The original court order or voluntary placement agreement that authorized the child’s placement in such a setting can still be used as the removal document.

However, the IV-E IM worker should explain the reason for the delay in the eligibility file. Note that the voluntary placement agreement **cannot** be used if it has expired. See the next section for further discussion.

On June 14, 2004, the court ordered the placement of John into a residential treatment facility. At the time of the court order, there were no residential beds available for John. While waiting for a residential bed, John remained in the home, and DHS arranged for John to receive day treatment.

On July 26, a bed became available and John was placed out of the home after six weeks on a waiting list. Although John was not placed until July 26, the June 14 court order is considered the removal document, since it is the order that initially ordered the out-of-home placement. John is considered removed on July 26.

Expired Voluntary Placement Agreements

A voluntary placement agreement (VPA) may be signed for placement of a child but not be executed or may expire before being executed. The child may not be placed until a few weeks or months later for a variety of reasons, such as a placement is being located, or a child is hospitalized or has run away.

A VPA that expired before the child's placement can never be used as the authority for removal. Another VPA or court order closer to the child's actual removal must be used as the removal document. See the example below.

On April 1, 2003, the mother of Sandra and Brad signed a VPA, which expired on June 29, 2003, allowing DHS to place both children outside of the home.

On June 28, 2003, DHS obtained a court order for both children stating placement outside the home was in their best interests. The order authorized the continued placement of Sandra and Brad under the responsibility of DHS.

Sandra, who is 2 years old, was placed on April 1, 2003. However, Brad, who is 15 years old, was more difficult to place and remained home with his mother until a group home bed opened up on July 15.

Because Brad remained in the home until July 15, the VPA was expired by the time he was placed, and, therefore, cannot be used as his removal document. Instead, the June 28 court order is the legal authority for Brad's removal.

Day Treatment

Before a child is removed from the home for placement in a treatment setting, DHS or JCS may try day treatment as a less restrictive alternative for the child to prevent the need for out-of-home placement. During day treatment, as the name implies, the child spends the day at a treatment facility but returns home for the night.

A child in day treatment is not considered to be in out-of-home care, even if the court orders such treatment. However, if the child's needs subsequently require out-of-home placement, and an order is obtained at that time, the child may qualify for IV-E. The removal document would be the order that authorized the residential treatment out-of-home, not the order that authorized day treatment.

Runaways

Children whose removal has been authorized by court order, but who run away before DHS or JCS locates and places them may be considered removed by the original court order, even if DHS or JCS does not locate the child for more than six months.

Provided the court order remains open and DHS or JCS still has authority to place the child based on this order, the original order would be considered the order which authorized the removal. Note that in these situations it is critical to establish that the "living with a specified relative requirement" has been met, as discussed in **Removal From a Specified Relative** later in this chapter.

See further discussion of children who run away after being placed in the section, **Responsibility for Placement and Care**.

Juvenile Removals

The IV-E requirements also apply to delinquent youth and juveniles in need of out-of-home-placement. In these cases a child's placement in a traditional foster care setting may be preceded by placement in a juvenile setting such as detention. It is the order which caused original removal of the child from the child's home that is the relevant order for removal — even if that document did not order the immediate placement of the child in a foster care setting.

JCS may not realize the criticality of providing this first court order. When determining eligibility on a juvenile case, it is particularly important to scrutinize the information provided to validate that the correct order has been provided.

◆ **48 Hour Holds**

Juveniles are frequently placed in and out of detention on a temporary basis. Both the police and JCOs have authority to place the child in detention without a court order in certain jurisdictions.

If the child has had a previous detention placement, consider whether the child's return home was a trial home visit under court order. See **Child in Home of Parent (Trial Home Visit)**.

If the child returned home after the 48-hour period and no legal action was initiated, this period does not start an episode of out-of-home, even if the child is placed in out-of-home care at some point of time in the future.

If the child moves from the 48-hour hold to a subsequent placement, or legal action is initiated during the 48-hour hold, this is the start of an out-of-home care episode.

The earliest court order that authorized the child's out-of home placement should be considered the removal order for IV-E purposes, even if it is an order that only authorized the 48-hour hold.

◆ **Pick-up Orders, Detention Orders, and Warrants**

When a child has committed a crime or is believed to have committed a crime but has not attended court hearings, the court may issue a pick-up order or detention order for the child. Such an order authorizes the child to be taken into physical custody once the child is located.

If the child is subsequently located and placed in out-of-home care pursuant to this order, this is the order that should be considered the removal order for IV-E purposes.

Removal by Court Order

Legal reference: 42 USC 672 (a)(1)

Children removed by a court order must meet a number of judicial determination requirements in order to be IV-E-eligible. The timing of these judicial determinations is based upon the date of removal of the child.

The current more restrictive requirements went into effect on March 27, 2000, and apply to all children whose initial removal was on or after that date. For children who entered care before March 27, 2000, more liberal requirements can be applied.

Contrary to Welfare

Legal reference: 42 USC 672, 45 CFR 1356.21(c)

Title IV-E requires that agencies remove children from their homes only as a last resort. To ensure that agencies follow this requirement, Title IV-E rules mandate that an independent third party, the court, review the circumstances of the case to determine that removal is the only option.

Specifically, Title IV-E requires a determination to the effect that remaining in the home is “contrary to the welfare” of the child, or that out-of-home placement is in the “best interests” of the child.

- ◆ For a child to be IV-E eligible, the initial court order authorizing removal of the child must include a contrary to welfare/best interests (CTW/BI) determination.
- ◆ For cases that entered care before March 27, 2000, additional time is allotted to obtain an order including contrary to the welfare/best interests determination. CTW/BI can be addressed in any court order within six months from the removal.

If the determination is not obtained within the time limits outlined above, the child can never be IV-E eligible during this episode in out-of-home care.

Delinquent juveniles placed in out-of-home care through Juvenile Court Services (JCS) need to meet the same Title IV-E criteria in order to be eligible for federal reimbursement. The CTW/BI requirements must be met within the time limits outlined above, even when the court has not ordered JCS involvement in the placement of the child.

“Contrary to welfare” determinations must be based on the interests of the child. However, removal in JCS cases frequently relates to community interests rather than the needs of the child.

It is permissible to include language referencing community protection as long as it is combined with a statement that indicates that removal and placement are in the best interests of the child. An order stating the child is to be removed from the home because the child is a threat to the community would not satisfy this requirement, because it focuses solely on the needs of the community.

Deciding if an Order Meets CTW/BI Requirement

Some examples of court order language that satisfies the “contrary to the welfare/best interests” requirement include:

- ◆ The child is without proper care, custody, or support and immediate protective custody is necessary to prevent personal harm to the child.
- ◆ The removal from the home is (or was) necessary to protect the child.
- ◆ The parents or other person exercising custodial control are unable or unwilling to protect the child.
- ◆ Remaining in the home is contrary to the welfare of the child.
- ◆ The child will commit or attempt to commit other offenses injurious to himself/herself and the community before the court disposition.
- ◆ The child is in need of placement services to protect the child and the community from injury.

There is no requirement that the court use the *exact* wording identified above, but rather that the court make a finding *to the effect that* it is contrary to the welfare of the child to remain in the home. Many judges express these conditions in other terminology.

To meet the “contrary to welfare” requirement, the court must not only authorize the removal, but also base that removal on an assessment that the conditions in the child’s home jeopardize the child’s health, safety, or welfare.

Because the court may not use the specific words “contrary to the welfare” or “best interests,” it falls to the reader to establish the court’s intent regarding these factors. Examples of questions that may help to interpret the court’s language and understand the court’s intent include:

- ◆ Does the judge think that the conditions in the home require the child’s removal?
- ◆ Is the order for removal based on the judge’s conviction that the conditions in the home jeopardize the child’s health, welfare, or safety?
- ◆ Does the order communicate the court’s opinion that it is in the child’s best interests to leave the child’s current caretaker and be placed in another setting?
- ◆ When referring to agency statements and documents, is the court accepting the agency’s position as its own?
- ◆ Is the court addressing the child’s interest and needs rather than family or agency issues?

Reasonable Efforts to Prevent Removal

Legal reference: 42 USC 672, 45 CFR 1356.21(b)(1)

Title IV-E requires that agencies make efforts to avoid removing children from their homes. To ensure that agencies follow this requirement, the court must review the circumstances of the case to determine that the agency has made a reasonable attempt to prevent the removal.

Since removal of the child from the home makes an irrevocable change to that family, it is important that the court makes clear that efforts were made to prevent the removal before removing the child.

Specifically, Title IV-E requires a judicial determination *to the effect that* “reasonable efforts were made to prevent the removal” of the child (RE1). A finding that no efforts were reasonable, given the situation, would also meet this requirement.

- ◆ IV-E requires a court order within 60 days of the initial order sanctioning the child’s removal that contains a judicial determination that reasonable efforts were made to prevent removal of the child. If this requirement is not met, the child will never be eligible for the entire episode of out-of-home care.
- ◆ For cases that entered care before March 27, 2000, there is no time limit to obtain the RE1 determination. However, the child cannot be eligible until the determination has been made. A determination to the effect that reasonable efforts have been made to reunify the child and family is acceptable to meet the RE1 requirement for these older cases.

The child is not eligible for IV-E until the month in which the RE1 requirement is satisfied.

The RE1 requirement applies to children who enter care through JCS involvement as well as traditional foster care children. The “reasonable efforts to prevent removal” requirement must still be met within the time limits outlined, even when the child is not yet involved with or supervised by JCS.

Aggravated Circumstances

Legal reference: 45 CFR 1356 (b)(3)
Iowa Code sections 232.102(12) and 232.116(1)(h)

In certain situations, the court may find that reasonable efforts are not required due to “aggravated circumstances.” Aggravated circumstances are indicated by **any** of the following:

- ◆ The parent has abandoned the child; or
- ◆ The parent has been convicted of murder of a sibling of the child; or
- ◆ The parent has been convicted of a felony assault that resulted in serious bodily injury to the child or a sibling of the child; or
- ◆ The parent has been convicted of aiding, abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of a sibling of the child; or
- ◆ The parent’s rights with respect to another child in the same family have been terminated, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely to correct the conditions that led to the child’s removal within a reasonable period of time; or
- ◆ The court finds that **all** of the following have occurred:
 - The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.
 - There is clear and convincing evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child.
 - There is clear and convincing evidence that the offer or receipt of services would not correct the conditions that led to the abuse or neglect of the child within a reasonable period.

To consider the RE1 requirement met due to aggravated circumstances, the court must note that reasonable efforts are not required and that aggravated circumstances exist, or that one of the outlined conditions exists.

Deciding if an Order Meets the RE1 Requirement

Examples of statements that satisfy the “reasonable efforts” criteria for children under the agency’s legal responsibility include:

- ◆ Reasonable efforts were made to prevent removal of the child.
- ◆ Reasonable efforts were made to eliminate the need for the removal of the child.
- ◆ All reasonable services have been exhausted in an attempt to keep the child in the home.
- ◆ Due to the emergency nature of the situation, no efforts to prevent removal were reasonable.
- ◆ The situation did not require reasonable efforts because aggravated circumstances exist.
- ◆ Reasonable efforts were made to reunify the family (acceptable for cases that entered care before March 27, 2000, only).

There is no requirement that the court use the specific words “reasonable efforts” or any of the specific phrases outlined above to satisfy the RE1 requirement. However, the order must communicate the court’s conclusion that satisfactory efforts have been made to prevent the need to place the child out of the home, or that the situation precluded such efforts.

It is not enough for the order to provide a laundry list of efforts made. Rather, the order must communicate the court’s assessment that these services provided or actions taken (or lack thereof) were reasonable given the situation at hand, or the court’s agreement with DHS or JCS assessment that the services (or lack thereof) were reasonable.

Examples of questions to ask to interpret the court's language and understand the court's intent include:

- ◆ When referring to agency statements and documents, is the court accepting the agency's position as its own?
- ◆ Does the judge believe that the agency is taking, has been taking, or has taken proper steps to maintain the child in the child's home or prevent out-of-home placement of the child?
- ◆ Does the court believe that the situation in the home made efforts to maintain the child in the child's home impossible?
- ◆ For cases that entered care before March 27, 2000, has the judge expressed satisfaction at agency efforts to return the child to the child's removal home or to reunify the child with other family members?
- ◆ Has the court acknowledged that reasonable efforts are not required because one of the "aggravated circumstances" situations exists?

Removal by Voluntary Placement Agreement

Legal reference: 42 USC 672 (a)(1)

Children removed via a voluntary placement agreement must meet judicial determination requirements that differ from those required with a court-ordered removal. The timing of these judicial determinations is based upon the date of placement of the child.

A voluntary placement agreement is statutorily defined as an agreement made between the state agency and the child's parent or guardian for placement of the child. For a VPA to be considered valid, it must be signed by *both* the parent or legal guardian and a DHS representative. Consider the following guidelines when a child is placed pursuant to a VPA:

- ◆ The agreement is not valid until both parties sign it. If each party signs it on a different day, it is not valid until the latter of the two days.

- ◆ IV-E funding cannot be claimed on a voluntarily placed child until the first day of the month in which the VPA is signed by both required parties, even when the effective date on the document falls within an earlier month or the child was placed in an earlier month.
- ◆ Only a parent or legal guardian may enter into a voluntary placement agreement with DHS. A VPA signed by a caretaker who is not the child's parent or legal guardian is not acceptable, even if that person has cared for the child for an extended period.
- ◆ The VPA must still be in effect when the child enters out-of-home placement. If the VPA has expired by the time of the child's placement, it is not a valid placement authority for IV-E purposes.
- ◆ A child cannot be eligible for the entire out-of-home care episode if someone other than the parent or legal guardian signed the VPA.

Contrary to Welfare/Best Interest Determinations

Legal reference: 42 USC 672 (g)(2), 45 CFR 1356.22(b)

Children placed with a VPA can be initially IV-E eligible, provided other IV-E eligibility requirements are met. However, for the child to remain IV-E eligible, a court order must be obtained within 180 days of the date the child is placed containing:

- ◆ A CTW/BI determination, or
- ◆ A determination that remaining in foster care is in the child's best interests.

Any order within the 180-day time limit that contains such a determination is satisfactory to meet this requirement, even if it falls after the period of the VPA. If "best interest" language cannot be obtained within 180 days, the child then becomes ineligible as of the 181st day, and can never be eligible again during this episode of out-of-home care.

Note: This requirement is distinct and separate from the requirement for ongoing responsibility for placement care before expiration of a VPA. A child's IV-E status may be affected if a court order is not obtained before the 30-day or 90-day VPA expires. See **REQUIREMENTS FOR ONGOING ELIGIBILITY** for further discussion of this issue.

A child removed pursuant to a VPA requires a “best interest” determination to continue to be IV-E eligible, but does not require a RE1 determination. Reasonable efforts to prevent placement are not required for a child placed pursuant to VPA because the parents are requesting the placement of the child. Reasonable efforts are required only when the removal is involuntary.

Responsibility for Placement and Care

Legal reference: 42 USC 672(a)(2)

For a child to be IV-E eligible, the child’s placement and care must be the responsibility of DHS or JCS. “Responsibility for placement and care” means authority conveyed through a court order or voluntary placement agreement to provide supervision of the child and the child’s placement. Having responsibility for placement and care means that DHS or JCS has a responsibility to:

- ◆ Make placement recommendations,
- ◆ Monitor the placement of the child,
- ◆ Make case plans for a child,
- ◆ Create permanency goals for the child, and
- ◆ Arrange services towards the child’s permanency goals.

Responsibility for placement and care must be maintained for the child to remain IV-E-eligible. This requirement is discussed further under **REQUIREMENTS FOR ONGOING ELIGIBILITY** later in this chapter.

Determining DHS or JCS Responsibility for Placement and Care

A child cannot be IV-E eligible until placement and care responsibility has been established. Typically, responsibility for placement and care is granted when the court gives custody of the child to DHS or JCS, or gives custody to the child’s placement and orders DHS or JCS to supervise that placement. However, the court need not use the term “custody” or “supervision.”

DHS or JCS also may be considered to have responsibility for placement and care when the agency is party to a removal order for a child.

If the child is removed by court order, carefully examine the order to ensure that it includes responsibility for placement and care. If it does not, examine each subsequent order. Although the out-of-home care episode may begin, the child may not become eligible for IV-E (and claiming may not begin) until the responsibility for placement and care criterion is met.

When a parent or guardian signs a voluntary placement agreement with DHS agreeing to out-of-home placement of the child, the parent or guardian is giving responsibility for placement and care to DHS.

However, if a child is returned home during the period of the agreement and no court order granting responsibility for placement and care has yet been issued, the voluntary agreement (and the responsibility for placement and care) should be considered terminated and the episode of out-of-home care ended.

Child in Home of Parent (Trial Home Visit)

Legal reference: 45 CFR 1356.21(e)

If a child has previously been in out-of-home care and is now returning to out-of-home care after a stay with a parent, guardian, or other permanent caretaker, it is imperative to determine if this time at home should be considered a trial home visit.

- ◆ If the child returns home for less than six months and DHS or JCS retains responsibility for placement and care, this is considered a trial home visit.
- ◆ If the child returns home for more than six months, or if DHS or JCS has been relieved of responsibility for placement and care, the return home should be considered permanent.

For the purposes of this discussion, the child's "home" includes the home of the caretaker from whom the child was originally removed and placed in out-of-home care, the child's biological or adoptive parent, or a person given guardianship of the child.

If the child returns to placement during a trial home visit as defined above, the episode of out-of-home care is considered to be continuous, and no new initial determination is required.

However, if the return home was permanent, any subsequent out-of-home placement should be considered a new episode of out-of-home care requiring a new initial determination.

1. Mark has a history of suicide attempts and voluntary psychiatric hospitalizations. His most recent hospitalization is March 3-15, 2004.

Mark returns to his mother's home, and DHS becomes involved to seek group care for him. Mark's mother agrees to sign a voluntary placement agreement for his placement. On April 1, 2004, Mark is placed in a residential treatment center.

Mark's return home is not considered a trial home visit. Because DHS had no responsibility for placement and care of Mark during his hospitalizations, an episode of care had never started. The beginning of Mark's episode is the April 1 group care placement pursuant to the voluntary placement agreement.

2. On May 1, 2004, the police place Stacey into detention after taking her into custody on assault charges. The next day a detention hearing is held and Stacey is released to her parents under the supervision of JCS. On May 29, Stacey is placed into out-of-home placement.

Because JCS retained responsibility for placement and care while Stacey was home with her parents, the return home should be considered a trial home visit. The episode begins with her May 1 removal, and the first order is the May 2 detention order.

3. Susan is removed and placed into foster care due to abuse and neglect in her home. After working extensively with the child and family, DHS returns Susan to the home of her father, although the court ordered that DHS continue to supervise Susan in her father's home.

After four relatively stable months, DHS receives a new referral about abuse in the home. With authorization of the court, Susan is taken out of her father's home and placed back into foster care.

Susan's return home was a trial home visit. She was home for less than six months and DHS maintained responsibility for placement and care during that time.

Runaways

The episode of out-of-home care continues when a child runs away from out-of-home placement provided DHS or JCS maintains responsibility for placement and care.

If the child returns to placement after a period on runaway status, consider this a continuation of the same out-of-home care episode rather than a new episode of care requiring a new initial determination. This is true even when the child runs for several months or a year, provided DHS or JCS maintained placement and care responsibility during that time.

See further discussion of children who run away before their initial placement in the section **Determining the Correct Removal Document**.

Documentation of Required Judicial Determinations

Legal reference: 45 CFR 1356.21(d)

Conclusions regarding “contrary to welfare,” “best interests,” and “reasonable efforts” determinations should be based on a signed and dated copy of the court’s order, or an official electronic version of the court’s order if one is available.

Since it is common in many states for draft versions of an order to be prepared before the final order is completed, it is important that an official version of critical orders be obtained to verify the court’s final approval for audit purposes.

In the event a judicial determination is not evident on the face of a court order, a transcript is the only acceptable alternative to demonstrate a judicial determination was made for hearings conducted after March 27, 2000.

Exceptions to Judicial Documentation Requirements

Legal reference: Pennsylvania DAB 1508

For children who entered care before March 27, 2000, there are a number of acceptable alternate methods for documenting that required judicial determinations of “contrary to welfare,” “best interests,” and “reasonable efforts” were made.

Nunc pro tunc orders are orders that correct errors of omission. Literally meaning “now for then,” these orders are issued to amend a previous court order when the original order failed to include a required judicial determination that the court actually made at that time.

Nunc pro tunc orders that correct missing judicial determinations (CTW/BI, RE1) are acceptable only for hearings that occurred before March 27, 2000. Observe the following guidelines when determining the acceptability of nunc pro tunc orders for documenting CTW/BI or RE1 language:

- ◆ The order must be for a hearing that occurred before the effective date of the new federal regulations (March 27, 2000).
- ◆ The same judge that issued the original order should issue the nunc pro tunc order as another judge is not in a position to know an off-the-record determination made by someone else.
- ◆ A hearing or order must have actually occurred on the nunc pro tunc date.
- ◆ The child’s case record must contain evidence that, at the time of the original hearing, the court considered information upon which it could have made the required determination. For example, petitions, applications, court reports, transcripts, bench notes, or docket sheets might be used to demonstrate this.
- ◆ Both the original and the nunc pro tunc order should be maintained in the child’s eligibility file.

Under no circumstances may a nunc pro tunc order be used to correct the substance of the court’s determinations related to CTW/BI and RE1 for a hearing which occurred on or after March 27, 2000. However, it is acceptable for amended or modified orders after that date to correct other types of errors such as names, dates of birth, responsibility for placement and care, etc.

On May 4, 1999, Bart was placed in a foster home. Due to an oversight, no court order was obtained to sanction this placement until June 15, 1999. Unfortunately, this order also did not address the CTW/BI requirement.

On January 12, 2000, Judge Jones, the judge who issued the June 15 order, issued another order stating, “Based on review of the information provided to DHS, the court finds it was contrary to the welfare of Bart to remain in the home, nunc pro tunc to May 4, 1999.”

This nunc pro tunc order is not acceptable, because there was no hearing held on May 4, 1999. The court did not hear Bart’s case until June 1999.

Effective Date of Judicial Determinations

In many jurisdictions it may take weeks or months before an official copy of the order is typed, signed, and filed in court records. An official copy of the court order is necessary to verify that a required judicial determination was made, and to finalize the eligibility determination.

The relevant effective date to use for court orders is the date the judge made the actual determination, not the date the judge signed the order.

- ◆ Because most court orders result from hearings before a judge, the date of the determination is typically established by utilizing the court hearing date included in the relevant court order.
- ◆ If the order contains language that leads the reader to conclude that the determination was *not* made on the day of the hearing, use of another date may be necessary.

For example, some orders may conclude with the statement, “So ordered on this day,” and list a date next to the statement. In this case, the date specified in the order should be used as the effective date of the determination.

- ◆ If no hearing date can be found in the order, or the order did not result from a hearing, then consider the date the order was signed by the judge as the effective date of the judicial determinations contained in the order. If neither a hearing date nor signature date is available, use the file stamp date.

On June 1, 2001, Robert was removed from the home pursuant to a court order with CTW language and placed in a foster home.

The judge did not make a RE1 determination in this hearing, but did make one in the hearing held on July 8, 2001. A copy of this order with the RE1 finding was not signed until August 15, 2001, and not received by the IV-E IM worker for review until September 1, 2001.

RE1 is required within 60 days of removal. Although the order was not signed by the judge or reviewed by the IV-E IM until more than 60 days had passed, the RE1 requirement was still met for Robert because the hearing in which the judge made the finding occurred within the 60-day limit.

Removal From a Specified Relative

Legal reference: 42 USC 672, 45 CFR 1356.21, 441 IAC 41.1(5), 441 IAC 41.8(1)

To meet the Title IV-E requirement for removal from a specified relative, the child must have been either physically or constructively removed from the home of a specified relative with whom the child lived at the time of the legal authority for removal or within six months of the legal authority. To determine if this requirement is met, the IV-E IM worker must:

- ◆ Determine from whom the court order or VPA removed the child;
- ◆ Determine if that person meets the definition of a specified relative; and
- ◆ Determine if the definition of a physical or constructive removal has been met.

The removal home is the home from which the court order or VPA removed the child when the child entered out-of-home placement. It is important to note that this may not be the home the child physically left at the time the child entered out-of-home care.

- ◆ For children placed by a voluntary placement agreement, the home of the parent or guardian who signed the VPA is always considered the removal home.
- ◆ For court-ordered removals, the removal home is the home identified by the court – the subject of the contrary to welfare determination.

REQUIREMENTS FOR INITIAL ELIGIBILITY

Removal From a Specified Relative

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The court order authorizing the child's removal may clearly identify the removal home within the contrary to welfare statement, such as, "It is contrary to the child's welfare to remain in the mother's home." In other cases, the subject of the "contrary to welfare" determination must be determined by assessing the content of the order that removed the child, and the petition or application that led to the order.

The removal home or subject of the CTW may be any of the following, as identified in the court order, petition, or application:

- ◆ The caretaker who is alleged to have abused or neglected the child;
- ◆ The person whose actions (or inaction) have prompted the child's removal;
- ◆ The person whose household was a threat to the child's health, safety, or welfare; or
- ◆ The person whose inability or unwillingness to continue caring for the child necessitated the child's out-of-home placement.

In the event that multiple people or homes are identified as the subject of the CTW, use the home or person that most clearly precipitated the child's removal as the removal home, as outlined in the example below.

The court order identifies two people as the subject of the CTW:

- ◆ The mother who abandoned the child four years ago, and
- ◆ The grandmother, with whom the child has lived for the past four years, and who was beating the child.

The grandmother should be considered the child's removal home, as it is the circumstances in the grandmother's home, not the mother's abandonment, which most directly caused the child's placement in out-of-home care.

The child must have lived in the removal home in the month of the removal or within the six months before the month of removal to meet IV-E requirements. Therefore, if the child has not lived in the removal home in the six-month period leading up to the month of removal, the child will not be IV-E eligible for the duration of the out-of-home care episode.

Federal regulations allow the child to be either physically or constructively removed. Distinguishing the type of removal is important because the type of removal helps to define what will be considered the child's date of removal. A number of other IV-E requirements hinges upon the child's date of removal.

The following sections give more information on:

- ◆ Definition of a specified relative
- ◆ Physical removal
- ◆ Constructive removal
- ◆ Circumstances when the removal requirement is not met

Definition of Specified Relative

Legal reference: ACYF IM 92-04, 441 IAC 41.1(5), 41.8(1), 41.2(3) as of July 16, 1996

Because Title IV-E is provided only to children who could have received AFDC in their removal home, to meet IV-E requirements the person designated as the removal home must also meet the definition of a specified relative. If the removal home does not meet the definition, the child cannot be IV-E-eligible for the duration of the out-of-home care episode.

Specified relatives include people within the fifth degree of kinship that are related by blood, adoption or marriage (including common law marriage), even if the marriage is terminated by death or divorce. The following people qualify as specified relatives:

- ◆ Father, adoptive father
- ◆ Mother, adoptive mother
- ◆ Grandfather, grandfather-in-law (the subsequent husband of the child's natural grandmother, i.e., step grandfather), adoptive grandfather
- ◆ Grandmother, grandmother-in-law (the subsequent wife of the child's natural grandfather, i.e., step grandmother), adoptive grandmother
- ◆ Great-grandfather, great-great-grandfather
- ◆ Great-grandmother, great-great-grandmother

REQUIREMENTS FOR INITIAL ELIGIBILITY

Removal From a Specified Relative

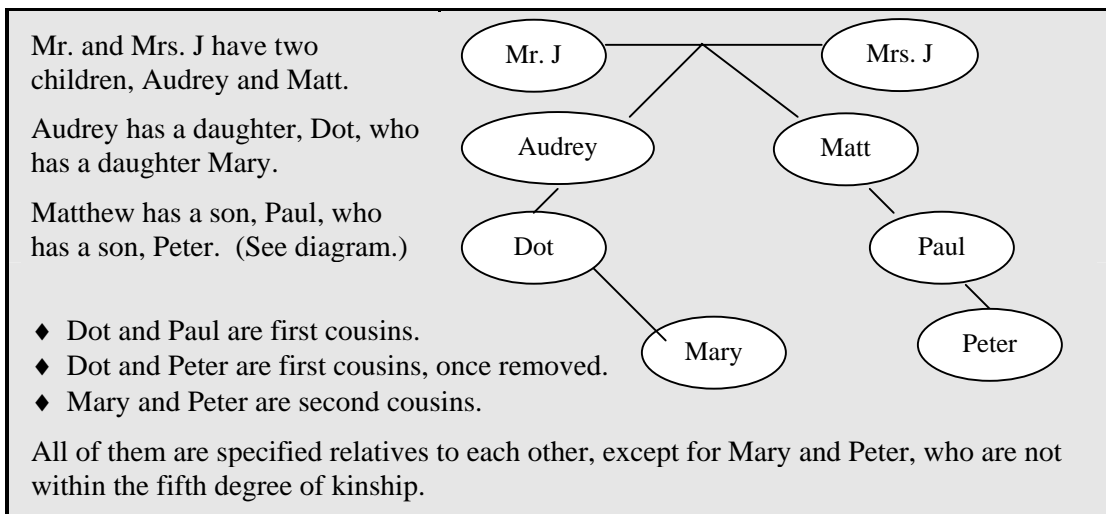
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- ◆ Stepfather, but not his parents
- ◆ Stepmother, but not her parents
- ◆ Brother, brother-of-half-blood, stepbrother
- ◆ Brother-in-law, adoptive brother
- ◆ Sister, sister-of-half-blood, stepsister
- ◆ Sister-in-law, adoptive sister
- ◆ Uncle, aunt (of whole or half blood)
- ◆ Uncle-in-law, aunt-in-law (the spouse of the child's natural uncle or aunt)
- ◆ Great uncle, great-great-uncle
- ◆ Great aunt, great-great-aunt
- ◆ Nephews, nieces
- ◆ First cousins, and first cousins once removed (the child of a first cousin or parent of a first cousin).



Physical Removal

A physical removal has occurred when the child leaves the care of the removal home at the approximate time the child’s removal from this home is authorized by a court order or voluntary placement agreement, or within the six months afterward.

This includes situations where the caretaker leaves the child’s home rather than the child leaving the caretaker’s home. The date of removal for IV-E purposes is the date the child leaves the care of the removal home.

For children who are physically removed from a specified relative, the date of removal will typically be on the same day or within a few days of the authority for removal. However, in some circumstances a child may be physically removed some time *after* the authority for placement. This is an acceptable physical removal situation as long as there is a justifiable reason the removal was delayed.

For example, removal may be delayed when the court authorizes the child’s placement in foster group care but a space for the child is not immediately available.

1. Rebecca is removed from her mother’s home on March 25, 2003, pursuant to a court order issued earlier that day authorizing the removal. The order states that it was contrary to the welfare of the child to remain in her mother’s home.

Rebecca meets the “removal from a specified relative” criterion. Rebecca was removed from the home of her mother, the CTW home, at the same time as the legal action.

Date of removal: March 25, 2003

2. Gary’s father signs a voluntary placement agreement on January 3, 2003, for his placement on the same date. Gary meets the “removal from a specified relative” criterion. Gary was removed from the home of his father, who signed the placement agreement, at the same time as the legal action.

Date of removal: January 3, 2003

Constructive Removal

A constructive removal has occurred when the child is living with another person at the time the court order or voluntary placement agreement authorizes the removal of the child from the removal home, but the child lived with the removal home within the six months before the court order or voluntary placement agreement.

The child may or may not remain with the child's current caretaker at the time of legal action. The key in distinguishing a constructive removal is that the child is removed by court order or voluntary placement agreement from another person with whom the child does not live at the time.

For children who are constructively removed, the court order or voluntary placement agreement that authorized the removal should be considered the date of removal.

1. Andrew's mother abandons him at his aunt's home on July 3, 2003. DHS becomes aware of the situation two months later. The aunt indicates she would like to continue caring for Andrew. On September 7, 2003, a court order is issued stating it is in his best interest to remain out of the mother's home. Andrew remains in the aunt's home.

Andrew meets the "removal from a specified relative" criterion. Andrew was constructively removed from the home of his mother, the CTW home. Andrew did not live there at the time of legal action, but he did live there during the previous six months.

Date of removal: September 7, 2003

2. On May 15, 2002, Jessica's father leaves her at a neighbor's house. Three weeks later, the neighbor notifies DHS because she can no longer care for the abandoned child. On June 17, 2002, an order is issued stating it is contrary to the Jessica's welfare to remain in the father's home, and she is removed from the neighbor's home.

Jessica meets the "removal from a specified relative" criterion. She was constructively removed from the home of her father, the CTW home. Jessica did not live there at the time of legal action, but she did live there during the previous six months.

Date of removal: June 17, 2002

3. A court order authorizing Pamela's removal from her aunt is issued on August 16, 2003. The order states it is contrary to Pamela's welfare to remain in the home due to being abused by her aunt. When DHS arrives at the aunt's home, it is discovered that Pamela has run away. She is located and placed on October 21, 2003.

Pamela meets the "removal from a specified relative" criterion. Pamela was constructively removed from the home of her aunt, the subject of the CTW, within six months of the legal action. There was an acceptable explanation for the delay.

Date of removal: August 16, 2003

Removal Requirement Not Met

The requirement for removal from a specified relative is not satisfied when:

- ◆ The child did not live in the specified relative removal home at the time of, or within the six months before, the legal action for removal.
- ◆ The removal home does not meet the definition of a specified relative.
- ◆ The child remains in the CTW home (or the home of the person who signed the voluntary placement agreement) for more than six months after the court order or voluntary placement agreement.
- ◆ The child is removed from the home of one parent and placed in the home of another parent.

In these situations (except the last one), the child is in out-of-home care and a IV-E determination does need to be done. However, the child will not be IV-E-eligible for the entire out-of-home care episode, as the requirement for removal from a specified relative has not been satisfied.

When a child is removed from the child's parent and placed with a relative or suitable person (other than a parent), the removal requirement is met. This is true even if the child's parent resides in the home with the relative or suitable person, as that person, not the parent, is responsible for the day-to-day care and supervision of the child.

AFDC Relatedness

Legal reference: 42 USC 672, 45 CFR 1356.21(l)

The original Title IV-E program was intended to help children removed from needy families, as defined by the Aid to Families with Dependent Children (AFDC) program. Although the old AFDC program no longer exists, Title IV-E has maintained a connection to this program and requires a child meet AFDC criteria to be eligible for Title IV-E. This is referred to as “AFDC relatedness.”

AFDC relatedness is determined based on whether the child or family would have been eligible to receive AFDC in the removal month if an application had been made. Eligibility is based on the AFDC program as is it existed on July 16, 1996.

The AFDC criteria of age, citizenship, deprivation, and financial need are summarized in the table below. The following sections discuss in detail how to determine the removal month and determine whether the child meets each of these requirements. (See **Removal From a Specified Relative** for instructions on how to determine the removal home.)

Requirement	Explanation
Age	The child must be under age 18 in the removal month, or if 18, be a full-time student expected to graduate by age 19.
Citizen or qualified alien status	The child must be a citizen or qualified alien in the removal month.
Deprivation	The child must be deprived of the support of one or both natural or adoptive parents in the removal month by reason of: <ul style="list-style-type: none"> ◆ Absence, or ◆ Incapacity, or ◆ Death, or ◆ Unemployment or underemployment
Financial need	The combined countable income of the eligible group in the removal month must be less than the AFDC Standard of Need for that group size. The combined countable resources of the eligible group must be less than \$10,000 in the removal month.

Determining the Removal Month

When considering if a child meets AFDC relatedness, the AFDC criteria must be considered based on the month the child was removed from the home as defined in **Removal From a Specified Relative**.

Whether the child was physically or constructively removed affects the removal month. A constructively removed child may not be living in the removal home at the time of the court order or voluntary placement agreement authorizing the removal. In these situations, consider the circumstances of the removal home during the removal month as though the child under review continued to live in that home.

1. Bethany is physically removed from her home on November 20, 2002, pursuant to a court order from the same date. The removal month is November 2002. Examine AFDC criteria for the household in this month.
2. On February 16, 2004, a court order is issued that constructively removes Gary from his mother's home, where he had not lived since December 2003. The removal month is February 2004. Examine AFDC criteria for the household in this month (including Gary in the removal home as if he were living there).
3. Steven is court-ordered into placement on August 23, 2003, but remains in his father's home until his physical removal on September 16, 2003, when an appropriate placement is available to meet his behavioral needs. The removal month is September 2003. Examine AFDC criteria for the household in this month.

Age

Legal reference: 42 U.S. 672(a)(4); 42 U.S. Code 606 (a) as of July 16, 1996

The child under review must meet the AFDC age requirement in the removal month to be initially eligible for Title IV-E. The child must be under age 18 or age 18 and a full-time student in high school or an equivalent program and reasonably expected to meet the requirements for graduation before reaching age 19.

Citizenship

Legal reference: P.L. 104-193, §431, ACYF PIQ 99-01

To be AFDC related, the child under review must be a United States citizen by birth or naturalization or be a qualified alien in the removal month. Individuals born in the U.S. or Puerto Rico, or born to at least one U.S. citizen parent, are citizens.

The term “qualified alien” was defined in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), Public Law 104-193, and may include but is not limited to the following:

- ◆ A refugee admitted under federal law,
- ◆ Certain battered aliens or victims of a severe form of trafficking,
- ◆ Cuban or Haitian entrants, and
- ◆ Children legally admitted for permanent residence in the U.S.

Refer to manual 8-L for a detailed discussion of the definition of a qualified alien. Undocumented immigrants or illegal aliens are not eligible for Title IV-E.

Note: PRWORA instituted a five-year residency requirement for aliens under most types of Medicaid and FIP; however, IV-E was exempted from this requirement. Aliens who qualify for IV-E are categorically eligible for Medicaid based on their IV-E eligibility even if they have not resided in the United States for five years.

Deprivation

Legal reference: 42 U.S. Code 606(a) as of 7/16/96; 441 IAC 41.1(5) as of 7/16/96

When determining Title IV-E eligibility foster care, a child is considered deprived of parental support or care if one or both parents are:

- ◆ Continually absent from the home, or
- ◆ Physically or mentally incapacitated, or
- ◆ Deceased, or
- ◆ Unemployed or underemployed.

Neither an able-bodied stepparent nor a friend in the home disqualifies a child from assistance, as long as the child meets the other eligibility factors. Determine deprivation by the circumstances of the natural parents (or adoptive parents where the child has been adopted) regardless of whether the parents are married to each other.

Although more than one deprivation reason may exist in the removal household, it is only necessary to establish one. As a rule, choose the deprivation reason that is both most clear and expected to last.

For example, if deprivation can be established due to unemployment of one parent *or* death of the other parent, deprivation due to death should be used as the employment status of a parent may change from month to month.

Determining the Natural Father

Legal reference: 441 IAC 41.2(3)“b,” 41.1(5)“b,” 41.8(1)“b” as of July 16, 1996

The term “natural father” refers to the man who can be considered to be the child’s father for the purpose of determining eligibility. Consider a man as the natural father if he:

- ◆ Was married to the mother at the time of the child’s conception or birth (unless the court has declared this man **not** to be the father), or
- ◆ Has been declared by the court to be the father even though not married to the mother at the time of the child’s conception or birth, or
- ◆ Claims to be the father **unless** the child already has another legal father as described above.

“Biological father” is the man responsible for the conception of the child.

“Legal father” is the man considered the father under Iowa law. When the child’s biological father is someone other than the child’s legal father, consider the legal father to be the parent when determining if the child is deprived. Do so until the court establishes that the legal father is not the parent of the child.

Deprivation Due to Death

Legal reference: 42 U.S. Code 672, 42 U.S. Code 673; 42 U.S. Code 602 as of July 16, 1996

A child with one or more deceased biological or adoptive parent meets the criteria for deprivation.

Deprivation Due to Continued Absence

Legal reference: 441 IAC 41.1(5) as of July 16, 1996

Deprivation due to continued absence exists when at least one parent is not living in the removal home at the time of removal and is, therefore, not providing care or support to the child. A parent may be considered absent if the parent maintains a separate household.

However, a parent who is not present in the home at the time of removal due solely to employment (truck driver, carnival worker, etc.) or military duty should not be considered absent from the home.

When a parent has recently left the home, consider whether or not, at the time of the removal, the absence was expected to continue. If the absence is not expected to continue, the child cannot be considered deprived due to absence.

In addition, consider whether the child's removal and the parent's departure were due to the same event. If the child's removal was due to the same event that caused the parent's departure, the parent should not be considered absent.

Review the following examples for clarification:

1. Allen is living with both his parents. His mother is a traveling salesperson who has just left for a two-week long business trip when Allen is removed from his parents' home.

Allen is not deprived due to continued absence because, although his mother is not present at the time of removal, she still is considered to have lived in the removal home at that time.

2. Chelsea has been living with both her parents until May 4, 2003, when her parents have an argument and her father announces he is moving to his brother's home, takes all of his belongings, and leaves. Two days later, DHS responds to a report of abuse in the mother's home and removes the child.

Chelsea is deprived due to continued absence from the home because at the time of the removal, her father is absent and his absence is reasonably expected to continue.

3. Harold lives with his mother and father until his father begins serving a 20-year prison sentence in January 2003. In March 2003, Harold is removed from his mother's home.

Harold meets the deprivation criteria due to this father's continued absence from the home at the time of the removal.

4. Jacqueline is living with both her parents. On October 27, she is removed due to a domestic violence incident in the home. That evening, her father is arrested, but is expected to be released and return to the home the next day.

Jacqueline cannot be considered deprived due to continued absence. Although her father was arrested, his absence was not expected to continue.

5. One-year-old Richard is living with both of his parents. On June 1, the police find Richard with his mother when they raid a crack house. The mother is arrested and Richard is immediately placed in foster care.

Richard cannot be considered deprived due the absence of his mother. Richard's placement in care and his mother's arrest were due to the same event.

A child may also be deprived due to continued absence when:

- ◆ The court has awarded joint custody to the parents (since the child is continually deprived of the care and support of at least one parent at a time).
- ◆ Both parents live in the home, but at least one is a convicted offender who is allowed to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday.

- ◆ The child only has one legal parent due to a single-parent adoption. The child is deprived due to the absence of a second parent.
- ◆ The child does not have a legal father (as discussed in **Determining the Natural Father**) and no father has been named or established for the child. The child is deprived due to the absence of the child's or her father.

Deprivation Due to Incapacity

Legal reference: 441 IAC 41.1(5), 41.8(1) as of July 16, 1996

A child is deprived when one or both parents have a disability that renders them unable to provide a reasonably acceptable minimum level of care and support. A child is also considered deprived due to incapacity when one or both parents are incapacitated in the removal month such that:

- ◆ The parent is prevented from providing the level of care or support to the child comparable to that provided before the incapacity and;
- ◆ The incapacity is expected to last at least 30 days past the date of removal.

1. Harriet lives with her mother and father. In July, her father sustains serious injuries in a car accident and is expected to be immobile and bedridden for at least three months. The next month, Harriet is removed from the home.

Harriet is deprived due to incapacitation, as her father is unable to provide the level of care and support he could before the accident, and this incapacitation is expected to last at least 30 days past the date of removal.

2. William lives with both his parents. His mother breaks her leg at an amusement park on a Thursday and plans on returning to work on Monday. On Sunday, William's parents sign a VPA for this removal and he is placed out of the home.

William is not deprived due to incapacitation. Although his mother's condition is expected to last longer than 30 days, her condition is not such that it should reasonably prevent her from providing comparable care or support to the child.

Consider a parent incapacitated when the parent receives Social Security or SSI payments based on disability or blindness. (SSI payments based solely on old age are not included.) No medical evidence is required.

Also consider the parent incapacitated when medical evidence confirms the existence of a clearly identifiable physical or mental disability that prevents the parent from providing a minimum or comparable level of care or support for the child. Common reasons a parent may be incapacitated under these terms are as follows:

- ◆ Physical disability
- ◆ Mental illness or mental retardation
- ◆ Chronic alcoholism or drug addiction

1. Jennifer reports that her father was drinking alcohol the previous day when he abused her and she is subsequently removed. Her father does not receive SSI, and there is no medical documentation to indicate that he is a chronic alcoholic.

Jennifer is not deprived due to her father's incapacitation because he does not receive SSI or Social Security benefits, and there is no medical evidence indicating he is incapacitated.

2. Bryant's mother is diagnosed as a chronic drug abuser in a psychological evaluation. The psychologist recommends that Bryant not be left in his mother's care until she completes intensive inpatient drug treatment. When she does not immediately seek treatment for this problem, Bryant is removed from her home.

Bryant is deprived due to his mother's incapacity. Although she was not receiving SSI or Social Security benefits, medical evidence confirmed her incapacitation.

Deprivation Due to Unemployment or Underemployment

Legal reference: 45 CFR 233.101

Deprivation in the removal home may exist due to underemployment or unemployment. Although a one-parent removal household might meet the underemployment or unemployment definition, this reason will typically be used when the child was removed from a two-parent household and neither parent was incapacitated at the time of removal.

A child may be considered deprived if the family income is less than the AFDC Schedule of Living Cost for the eligible group size during the removal month. To determine if this is the case, financial need must be calculated as discussed in the next section.

If the family meets the income limits as discussed under **Financial Need**, the child may be considered deprived due to underemployment or unemployment of a parent, as the parent's income is not sufficient to meet the needs of the family.

Financial Need

The final AFDC criterion that must be met in the removal month is financial need. The child and family must have met AFDC financial standards in the removal month to be considered needy. Several factors come into play in determining if financial need was met.

First, it is essential to know whom in the household to count as members of the eligible group. It is also important to know the amount and type of the income and resources of the household members.

Finally, it is necessary to know how to complete the financial need test including deciding what income and resources are counted or excluded from consideration.

All of this information as well as guidance on verification and documentation of financial information will be covered in the sections to follow.

Eligible Group

Legal reference: 441 IAC 41.6-41.8 as of July 16, 1996, 45 CFR 233.20(a)(1)(ii)

The eligible group consists of members in the household from which the child was removed whose income and resources are counted for comparison against the AFDC income limits.

The relationship between the child under review and others living in the removal home determines whether a person is included in the eligible group. Typically, the eligible group will include immediate family members such as parents and siblings, but not extended family members such as aunts, grandparents, cousins, etc.

When determining who should be in the eligible group, consider who was living in the removal home on the date of removal. If the child did not live in the removal home on the date of removal (i.e., the child was constructively removed), consider the household as if the child were still living there.

The following people must be included in the eligible group **if living together on the date of removal** and meeting non-financial eligibility requirements.

- ◆ The child under review. If this child did not actually live in the removal home in the month of removal, pretend the child did.
- ◆ Any brother or sister of the child under review (of whole, or half-blood, or adoptive), or of another child in the group. Children must meet the deprivation, and age requirements as discussed previously.
- ◆ Any natural or adoptive parent of a child included in the eligible group.

A person cannot be included in the eligible group if that person is ineligible for AFDC for a non-financial reason, such as a person who:

- ◆ Is an ineligible alien.
- ◆ Is a recipient of SSI, State Supplementary Assistance, or adoption subsidy.
- ◆ Is not living with a specified relative.

Common Child

When there is a common child in the home, this child is added to the group only if the child is deprived. When a common child and the child's half-sibling are removed from the home at the same time, always determine Title IV-E eligibility for the common child first, since it is necessary to know that child's deprivation status to determine the eligible group for the other children.

When the common child is not removed from the home at the same time as the child's half-sibling, it is still necessary to begin by determining if the common child was deprived in the removal month, as this will impact the child's inclusion in the group.

By definition, a common child lives with both parents, so the only possible deprivation reasons are incapacitation and unemployment or underemployment.

Determine if incapacitation exists as described in **Deprivation Due to Incapacity**. If incapacitation exists, the child will be included in the eligible group. If no incapacitation can be established for the removal month, consider whether the child is deprived due to unemployment or underemployment.

In order to decide if a common child is deprived due to unemployment or underemployment, follow the process below:

1. Follow the **Steps for Determining Who Is in the Eligible Group** as though the common child were the child under review, and including the common child in the group.
2. Compare the income of the common child's eligible group to the Standard of Need for that group. See **Financial Need: Income**.
3. If the group income is *below* the Standard of Need, consider the common child deprived due to unemployment or underemployment. This same eligible group and financial need calculation will apply for all other children in the group.

4. If the group income is *above* the Standard of Need, the common child is not deprived. The common child will not be included in the eligible group of the child's siblings. A new eligible group and financial need calculation will need to be done for the siblings.

A common child who is not deprived is not included in the eligible group, and, therefore, does not draw the child's other parent into the eligible group. If the common child's parents are married, the income of the parent who is not in the eligible group will have to be considered. See **Stepparents and the Eligible Group** for further discussion.

Steps for Determining Who Is in the Eligible Group

Begin by identifying the removal household (the subject of the CTW/BI or the person who signed the VPA) and the removal month.

Diagram the household composition in the removal home as it was on the date of removal, listing names and relationships. Also list the ages of all children in the home. If there is a common child in the removal home, remember to determine whether this child is deprived first, as discussed above, even if the common child was not removed from the home.

Next, take the following steps to build the eligible group. Start with the child under review if the common child is not deprived, or with the common child if the common child is deprived.

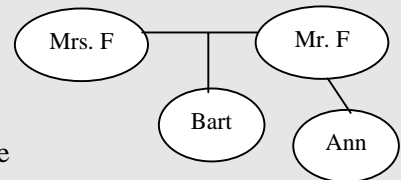
- ◆ The child is the first person in the group.
- ◆ Add the deprived minor siblings of the child (whole, half, or adoptive) or of another child in the group, provided they are related to a specified relative caretaker in the home.
- ◆ Add the parents (biological or adoptive) of any child in the group.
- ◆ Remove from the group any individuals who are ineligible aliens or receive SSI, State Supplementary Assistance, or adoption subsidy.

After completing the steps, if there is **no one** in the eligible group and the child under review receives SSI, State Supplementary Assistance, or adoption subsidy, consider the eligible group to have one member (the child) whose income and resources are exempt. A child in this situation will always meet the financial need criteria.

Example 1:

People living in the home:

- Ann, age 6, the child under review
- Mr. F, Ann's father, and the CTW home
- Mrs. F, Ann's stepmother
- Bart, age 2, minor common child of Mr. F and Mrs. F



Bart remains in the home when Ann is removed. Mr. and Mrs. F are both unemployed and neither is incapacitated. The family has no other countable income.

First, determine whether Bart, the common child, is deprived. Since neither of his parents is incapacitated, determine if deprivation due to unemployment or underemployment is met by comparing his eligible group's income to the income limit for that group size. Determine Bart's eligible group as follows:

1. Bart is in the group.
2. Add Bart's half-sibling Ann to the group. She is deprived due to her mother's absence and lives with a specified relative caretaker (her father).
3. Add Bart's parents, Mr. and Mrs. F, to the group.
4. There are no SSI, State Supplementary Assistance, or adoption subsidy recipients or ineligible aliens in the home to consider.

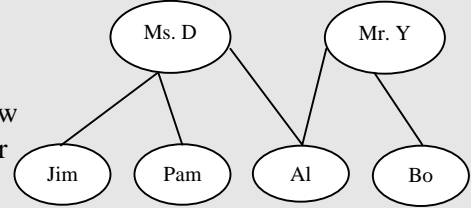
There are four people in Bart's eligible group: Bart, Ann, and Mr. and Mrs. F. The income of the group is clearly below the income limits, since there is no income for the family. Bart is deprived due to unemployment or underemployment.

Since Bart is deprived, Ann's group and financial need test is exactly the same as that done above for Bart.

Example 2:

People living in the home:

- Jim, age 10, the child under review
- Pam, age 8, Jim's biological sister
- Ms. D, Jim and Pam's mother
- Mr. Y, Ms. D's boyfriend
- Al, age 1, common child of Ms. D and Mr. Y
- Bo, age 5, Mr. Y's child from previous relationship



Ms. D receives \$100 a month in unearned income. Mr. Y earns \$5,000 a month at this job. Neither Ms. D nor Mr. Y is incapacitated.

First, determine if Al, the common child, is deprived due to unemployment or underemployment. Determine Al's eligible group as follows:

1. Al is in the group.
2. Add Jim, Pam, and Bo to the group because they are either half or whole siblings, deprived due to parental absence, and live with a specified relative caretaker.
3. Add Al's parents, Ms. D and Mr. Y, to the group.
4. There are no other children to consider.
5. There are no SSI, State Supplementary Assistance, or adoption subsidy recipients or ineligible aliens in the home to consider.

There are six people in Al's eligible group: Al, Jim, Pam, Bo, Ms. D, and Mr. Y. Since the income of this group is well above the income limits for the group size, Al is not deprived. Since Al is not deprived, Jim's eligible group must be determined separately, as follows:

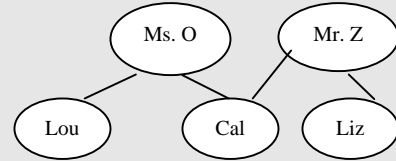
1. Jim is in the group.
2. Pam is added to the group since she is deprived due to her father's absence and lives with a specified relative caretaker; Al is not added to the group because he is not deprived. Bo is not added to the group because he is not a half, whole, or adoptive sibling to Jim.
3. Ms. D is added to the group because she has a child in the group; Mr. Y is not added to the group since he does not have a child in the group.
4. There are no SSI, State Supplementary Assistance, or adoption subsidy recipients or ineligible aliens in the home to consider.

There are three members in Jim's eligibility group: Jim, Pam, and Ms. D.

Example 3:

People living in the home:

- Lou, age 9, the child under review
- Ms. O, Lou's mother
- Mr. Z, Ms. O's boyfriend, who receives SSI due to a disability
- Cal, age 4, common child of Ms. O and Mr. Z
- Liz, age 16, Mr. Z's child from a previous relationship



It can first be determined that Cal, the common child is deprived due to incapacitation of his father. Since Cal, the common child, is deprived, the building of the eligible group begins with Cal.

1. Cal is in the group.
2. Lou and Liz are added to the group, as each is a half-sibling to Cal. Both are deprived due to absence of a parent, and both live with a specified relative (their other parent).
3. Ms. O and Mr. Z are both added to the group because they are parents of children in the group.
4. Mr. Z is removed from the group because he receives SSI.

There are four eligible group members: Lou, Cal, Liz, and Ms. O.

Example 4:

People living in the home:

- Shelly, age 8, the child under review
- Her paternal grandmother, who has been her legal guardian for many years
- Her half-sister, Francine, age 6, who has a different father and is, therefore, not related to the grandmother

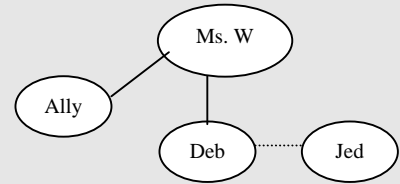
1. Shelly is in the group.
2. Francine is not added to the group because, although she is Shelly's half-sibling and is deprived due to parental absence, she does not live with a specified relative caretaker.
3. There are no parents in the home to consider.
4. There are no SSI, State Supplementary Assistance, or adoption subsidy recipients or ineligible aliens in the home to consider.

There is one eligible group member: Shelly.

Example 5:

People living in the home:

- Ally, age 7, the child under review
- Ms. W, Ally's mother
- Deb, 6 months, Ally's biological sister
- Jed, age 3, Deb's half-brother (no relation to Ally or Ms. W)



There are no common children to consider.

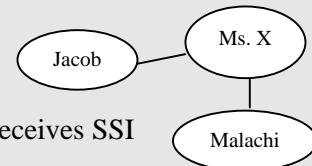
1. Ally is in the group.
2. Deb is added to the group because she is deprived due to parental absence and she lives with a specified relative caretaker (her mother). Jed is not added. Although he is a sibling to Deb, he is not related to a specified relative caretaker in the household.
3. Ms. W is added to the group as the parent of children in the group.
4. There are no SSI, State Supplementary Assistance, or adoption subsidy recipients or ineligible aliens in the home to consider.

There are three eligible group members: Ally, Deb, and Ms. O.

Example 6:

People living in the home:

- Malachi, age 2, the child under review, who receives SSI
- Ms. X, Malachi's mother, who receives SSI
- Jacob, age 8, Malachi's half-brother, who is an ineligible alien



There are no common children to consider.

1. Malachi is in the group.
2. Jacob is added to the group because he is deprived and lives with his mother who is a specified relative.
3. Ms. X is added to the group as the parent of children in the group.
4. Malachi and Ms. X are removed from the group because they are SSI recipients. Jacob is removed from the group because he is an ineligible alien.

Since there are no members in the group and Malachi is an SSI recipient, the eligible group size is one. Malachi's income will be excluded and he will meet financial need.

Stepparents and the Eligible Group

Whether a stepparent in the home is included in the eligible group depends on if the stepparent has a child in the group. Income and resources of any person in the eligible group, including stepparents who are in the group due to a common child, are all treated the same as discussed under **Financial Need: Income** and **Financial Need: Resources**.

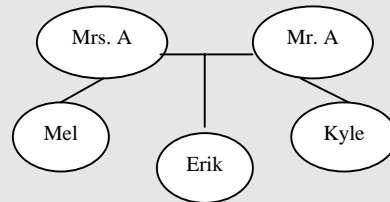
Stepparents living in the home who are not in the eligible group are referred to as ineligible stepparents. Their income must be made available to the group after a portion is diverted to meet their own needs and those of their other children who are not in the eligible group (including the common, ineligible child). See **Diverting Income of Excluded or Ineligible Adults**.

If the child under review was removed from an ineligible stepparent whose spouse (the biological or adoptive parent of the child) does not live in the home, treat this stepparent as a specified relative caretaker and do not consider the stepparent's income available to the group.

Example 1:

Persons living in the home:

- Mel, child under review
- Mrs. A, Mel's mother
- Mr. A, Mel's stepfather
- Erik, child of Mrs. and Mr. A
- Kyle, child of Mr. A from a previous relationship

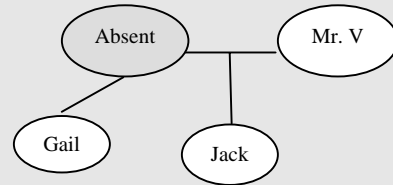


Erik, the common child, is not deprived, and is, therefore, not included in Mel's eligible group. Since Erik is not included, Mr. A is also not in the group. He is an ineligible stepparent whose income must be considered available to the group after diverting for the needs of himself, Erik, and his other child, Kyle.

Example 2:

Persons living in the home:

- Gail, the child under review
- Mr. V, Gail's stepfather
- Jack, Gail's half-brother and Mr. V's son



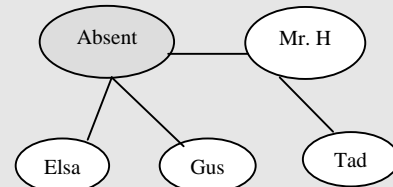
Gail's mother is absent from the home. Jack is included because he is Gail's half-sibling and is deprived due to absence. Mr. V, Gail's stepfather, is included because his son Jack is in the group.

Since Mr. V is in the eligible group, all of his income and resources are available to the group.

Example 3:

Persons living in the home:

- Elsa, the child under review
- Gus, Elsa's brother
- Mr. H, Elsa's and Gus' stepfather
- Tad, Mr. H's child from a previous relationship



Elsa's mother is absent from the home. Mr. V is an ineligible stepparent because he has no children in the eligible group. Since his spouse, Elsa's mother, is not in the home, he is treated as a specified relative caretaker and none of his income is available to the group.

Self-Supporting Parents of Minor, Unmarried Parents

Income of a self-supporting biological or adoptive parent of a minor unmarried parent whose child is in the group must be made available to the group after diverting for the biological or adoptive parent's own needs, the needs of any children not in the eligible group and the needs of the parent's spouse in the home.

The calculation for diverting income is the same as that for an ineligible stepparent. See **Diverting Income of Excluded or Ineligible Adults** for more information.

Excluded Children

It may be necessary to account for the needs of children living in the home who were excluded from the eligible group. Common children who are not deprived and ineligible alien children are the two types of excluded children. See **Diverting Income to Excluded Children**.

Optional Eligible Group Members

In some circumstances, it may be advantageous to include additional persons living in the home as part of the eligible group. These optional individuals are:

- ◆ Children of minors in the group
- ◆ Needy specified relative caretakers
- ◆ Parents of minor parents who have a child in the group

Consider a specified relative needy if the relative's resources are within the limits and the relative's income is less than the Standard of Need for one person. When the needy person has a spouse, determine the fact that one of them is needy by establishing that their combined income and resources are within AFDC standards for the needy person and spouse.

Determine what is most advantageous to the eligible group when considering whether an optional member should be included in the group. For example, if the income of the optional member would cause the group to be ineligible, then do not include that person in the group.

Income

Legal reference: 45 CFR 233.31 and 233.34 as of July 16, 1996; 441 IAC 41.7(9)"a" as of July 16, 1996

To meet AFDC requirements, the combined income of the eligible group after allowable deductions and diversions must be less than the income limits for that group size (the "Standard of Need"). The Standard of Need is outlined in the Schedule of Living Costs table as follows:

Schedule of Living Costs	
<u>Number of People in Eligible Group</u>	<u>Income Limit</u>
1	\$365.00
2	\$719.00
3	\$849.00
4	\$986.00
5	\$1,092.00
6	\$1,216.00
7	\$1,335.00
8	\$1,457.00
9	\$1,576.00
10	\$1,724.00
Each Additional Person	\$173.00

To make this determination, information regarding the earned and unearned income of each group member must be obtained. In addition, a portion of the income of certain individuals outside of the eligible group must be considered available to the group.

This section outlines the steps in this process and concludes with a discussion of the financial need test.

Countable Earned Income

Earned income is income earned by the person's own efforts, such as wages from a job. Earned income that is countable under AFDC guidelines includes the gross (pre-tax) amount of:

- ◆ Wages, salaries, tips, including payments for blood plasma (include as income any amount withheld for cafeteria or flexible benefit plans),
- ◆ Net profit from self-employment, including farms,
- ◆ Sick pay and vacation pay,
- ◆ Bonuses and severance pay.

Countable Unearned Income

Unearned income is any income in cash that is not gained by labor or service, for example benefits received, or investment income. In general, unearned income is not countable when it is granted to a recipient on a financial need basis.

Common forms of unearned income that are countable under AFDC guidelines include the net (post-tax) amount of the following:

- ◆ Investment income, such as dividends from stocks or bonds,
- ◆ Alimony or child support received,
- ◆ Subsidized guardianship payment from another state,
- ◆ Financial assistance for education or training,
- ◆ Rent from property handled by an agent,
- ◆ Interest income,
- ◆ Worker's compensation,
- ◆ Extended disability payments,
- ◆ Retirement benefits, and
- ◆ Benefits or rewards for service, or compensation for lack of employment, such as Social Security benefits, Railroad Retirement, Dislocated Worker Project Payments, VA pensions, unemployment insurance, and strike pay.

Child Support

Legal reference: 45 CFR 232.20 as of July 16, 1996,
441 IAC 41.7(1)“h,” 41.7(6)“o” as of July 16, 1996

In general, child support paid to a member of the eligible group is counted as unearned income, but several specific exceptions apply. Use the following guidelines in assessing how to count child support income:

- ◆ Child support is considered income to the child for whom it is being paid. Check the CHILD screen on ICAR to determine which children are covered by a particular case.
- ◆ If child support paid goes to the state rather than the eligible group, count as income payments up to but not over the monthly obligation.

- ◆ If someone outside the group receives support on the child's behalf, count it only if made available to the child.
- ◆ If someone in the eligible group receives child support on behalf of someone outside the eligible group, count it as income unless it can be demonstrated that the money was provided to the intended recipient.
- ◆ Amounts actually received by the eligible group which are over the monthly obligation, or which are for previous months, are treated as lump sums. Lump sums are discussed in more detail in the next section, but basic guidelines are as follows:
 - The total amount of the support (minus \$50 which is exempt) is combined with the other countable income of the eligible group.
 - If the total is less than the Standard of Need for the eligible group size, the entire amount is counted as income in the removal month.
 - If the total is more than the Standard of Need, this will make the child ineligible.
- ◆ The first \$50 of current monthly child support received by the eligible group is exempt. This exemption is made once each month, even if child support is received from multiple parties or on multiple dates within the month.

1. Frank is removed from the home of his adult sister. She is the subject of the CTW. In the month of removal, Frank's mother, who does not live in the home, received \$580 child support for her six children. \$100 of this money was intended for Frank, but the mother did not provide any of this money to Frank's caretaker.

No child support income is counted for Frank's eligible group, since the child support did not actually reach Frank.

2. John is removed from his mother. During the removal month, John's father paid \$700 in child support. ICAR shows by the account type that the money goes to the state, and that the father's monthly obligation was \$400. Only \$400 is treated as unearned income to the eligible group (minus \$50, which is exempt).

REQUIREMENTS FOR INITIAL ELIGIBILITY**AFDC Relatedness**

Revised February 17, 2006

Iowa Department of Human Services

Title 13 Social Service Resources**Chapter B** Determining Title IV-E Eligibility

3. Jo is removed from her mother's home, where she lived with her two sisters. In the month of removal, her mother received \$500 from her father on an account type 12. The father's monthly obligation amount is \$300.

Child support in the amount of \$450 (\$500 minus \$50 exemption) is counted as unearned income.

Child support payment information can be found on the ICAR system. ICAR screens and details about the information from each screen are outlined in the chart below.

Screen Name	Description
VPAYHIST	For <u>account types 10, 11, 13</u> , anything over the monthly obligation amount is kept by the state, not the payee. Count payments, up to, but not over, the monthly obligation amount in the month received.
VPAYHIST	For <u>account types 12, 17, 18</u> , all support is paid to the payee, not the state. Count payments up to the monthly obligation amount. Count any amount over as back support and treat as a lump sum.
VPAYHIST	<u>State tax offsets</u> will show the 'STT' fund source and the applicable account type. They are applied to the current month's obligation first and then to any arrearages. Count up to the monthly obligation for the month received. Treat any amount over as a lump sum.
VPAYREC	<u>Federal tax offsets</u> are always applied to arrearages and not current support obligations. Count federal tax offsets as a lump sum and only in the month received. Count only amounts received by the payee. If there is a discrepancy between VPAYREC and VPAYHIST regarding these offsets, obtain a release from the payee to contact CSRU regarding the distribution of this payment.

Screen Name	Description
VOBLIG and VOBLGST	<u>The monthly obligation</u> is counted in the month received. Do not count amounts owed for any current repayment or reimbursement orders.

To determine the receipt date for all determinations, add two working days and two mailing days to the DIST DATE on VPAYHIST. Working days do not include holidays; mailing days do not include Sundays or federal holidays.

Lump-Sum Income

Legal reference: 45 CFR 233.20(a)(3)(ii) and (iii) as of July 16, 1996,
441 IAC 41.7(9)“c”(1) and (2) as of July 16, 1996

Lump sums are large payments that count as income in the month they are received, and depending on the amount, must also be prorated over a number of months. The way lump sums are handled is based upon the type of lump sum: recurring or nonrecurring.

This section discusses handling of lump sums when determining the family income in the removal month. For discussion related to the handling of lump sums received by a child after the child has entered out-of-home care, see **Child’s Income and Resources**.

A **recurring** lump sum is income that is received or could be received on a recurring basis. Lump sums that are employment-related are generally considered recurring, but recurring lump sums may also come from an unearned income source, such as:

- ◆ Commission, profit sharing, or bonuses.
- ◆ Vacation payouts.
- ◆ Contract work that is paid on an irregular or intermittent basis.
- ◆ Income that is paid on an intermittent basis (e.g., three month intervals).

For purposes of determining initial eligibility, recurring lump sums are counted if they are received in the removal month, or before the removal month if they are anticipated to recur.

Rather than counting the entire lump sum as income in the month received, recurring lump sums are prorated by the months in which they were earned or are intended to cover.

For example, if vacation time was earned over a year, it is prorated over a year when paid out. If a contract was for a six-month period, the amount paid to the contractor should be prorated over a six-month period.

In all cases the lump-sum income is applied to the month of receipt and subsequent months, even when the payment was for a prior period. See the examples below for illustration:

1. Mr. J receives an annual bonus for of \$12,000 that is paid to him in the month of removal. Since this is an annual bonus, the income is prorated over a 12-month period, including the month of receipt. In the removal month, Mr. J is considered to have \$1000 earned income in addition to his regular earnings for that month.
2. Ms. F is a consultant who receives payment on quarterly basis from her clients. She receives \$4000 approximately five days after the close of each calendar quarter. Ms. F's son is removed in May, a month in which she does not receive any payments.

Since her quarterly payments are anticipated to recur, the lump sum Ms. F received in April is counted although it was not received in the removal month. Ms. F is considered to have \$1333.33 (\$4000 divided by 3) earned income in the month of removal.

3. Mr. G. is a contractor. He gets paid \$600 in January 2003 for work during the contract period of July 2002 through December 2002. Mr. G's son is removed in January 2003.

The \$600 income is prorated based upon the months for which it was intended to cover: July–December (6 months). Mr. G is considered to have \$100 income (\$600 divided by 6) in the removal month.

4. Ms. X starts a new job in August and receives a \$1500 signing bonus. In November, her two children are removed. Since the bonus is not expected to recur and Ms. X received it before the removal month, the \$1500 is not prorated or counted as income in the removal month.

Nonrecurring lump sums are one-time windfalls or payments that will not be received again. Typical examples of nonrecurring lump sums include retroactive payment of benefits, lawsuit settlements, inheritances and gambling or lottery winnings.

For purposes of determining initial eligibility, nonrecurring lump sums are counted only if received in the removal month, and should be treated as income in the month received. They are not prorated.

However, what remains of any lump sums received in months before the removal month will be considered during examination of the family's resources, as discussed later in this chapter.

See the examples below for illustration.

1. The eligible group includes Ms. Z and her three sons. The youngest son receives a lump sum payment of \$4000 in retroactive Social Security benefits in May, the month the two older sons are removed. There is no other income available to the eligible group May.

In June, the youngest child begins receiving \$500 in social security monthly and is also removed from the home.

Although there is no other income to the eligible group, the \$4000 lump sum exceeds the Standard of Need for four people (\$986), so the two children removed in May are not eligible for IV-E.

When the youngest child is removed, he can be eligible for IV-E. The combined income of the child and his mother, the \$500 Social Security payment, is less than the standard of need for two people (\$719).

The lump sum is not counted in his determination because it was received before his removal month. If the resource requirements are also met, the child will be IV-E-eligible.

2. The household consists of Mr. R, Mrs. R, and their four children. The four children are removed in December 2004. The SWCM reports that the parents were not working during the month of removal. Her understanding is that Mr. R received \$250,000 inheritance in the summer and the family had been living off this money.

Since the inheritance was not received in the removal month, it is not counted as income to Mr. R or to the eligible group. However, what remains of it during the removal month must be considered as resources to the family.

Exempt Income

Certain types of earned and unearned income are exempt in determining if the child meets the financial need requirements for AFDC relatedness. Refer to the FIP manual (Chapter 4-E) for detailed descriptions of these income types. These sources of income are exempt, even when received in a lump sum amount.

Sources of exempt earned and unearned income include, but are not limited to:

- ◆ TANF, FIP, diversion programs, grants for current living costs, or other need-based cash assistance;
- ◆ Earned Income Credit and income tax refunds;
- ◆ Job-related or third-party reimbursements, including family self-sufficiency grants;
- ◆ Living allowance or other payments related to volunteer programs such as AmeriCorps or VISTA payments;
- ◆ Income from job training programs, including WIA training expenses, work force investment project incentive allowance payments, vocational rehabilitation training allowance, veteran's benefits for education or training, and Blind Training Allowance;
- ◆ Supplemental Security Income (SSI) and State Supplementary Assistance (SSA), and family support subsidy;

- ◆ Federal payments, such as received through the Agent Orange Settlement Fund, Alaska Native Claims Settlement Act, Experimental Housing Allowance, Wartime Relocation of Civilians, Radiation Exposure Compensation Act, Relocation Assistance, and Crime Victim Compensation;
- ◆ Food programs, such as, Food Assistance, WIC, and USDA surplus food;
- ◆ Loans or grants administered by the U.S. Commissioner of Education;
- ◆ Census earnings;
- ◆ Settlements for payment of a medical expense, or payments received to repair or replace a resource that is actually used for that purpose;
- ◆ Income in-kind or gifts;
- ◆ Indian Tribal Judgment Funds;
- ◆ Adolescent Pregnancy Prevention payments;
- ◆ Foster care and adoption subsidy maintenance payments; and
- ◆ Earned income of full-time students under age 18.

Deductions

Legal reference: 441 IAC 41.7(2)“a” as of July 16, 1996

Deductions are portions of the eligible group’s income that will be disregarded or excluded before comparing the group’s income to the Standard of Need. They include:

- ◆ **Work Related Expense.** For each working adult in the eligible group, allow a \$90 deduction for work-related expenses. The deduction may not exceed the amount of earned income. If the person’s earned income is less than \$90, deduct only the earned income. For example, if the parent earned only \$50 in earned income, deduct only \$50.

- ◆ **Child Care Deduction.** For each working adult in the eligible group, allow a deduction for actual child care costs paid by that adult for a child in the eligible group to a limit of:
 - \$175 per month for a child over the age of two.
 - \$200 per month for a child under the age of two.

Deduct child care costs only if they are paid for supervision of the child when the parent is working, commuting to work, or sleeping during the child's waking hours due to the parent's work schedule.

Child care does not have to be provided by a licensed facility, but it may not be deducted if provided by the child's parent, an eligible group member, or a child excluded from the eligible group.

- ◆ **Child Support or Alimony Paid.** Deduct the actual amount of court-ordered child support paid by an eligible group member to a child outside the home. This includes both current support and back payments, provided they are court-ordered and paid during the removal month.

Financial Need Test

Legal reference: 45 CFR 233.31 as of July 16, 1996;
441 IAC 41.7(9)"a" as of July 16, 1996

In the financial need test the total countable income of the eligible group members, including the countable income of ineligible or excluded adults, is compared to the Standard of Need for the eligible group size. To determine the total countable income, follow the steps outline below:

1. Start with the countable earned income of the eligible group members.
2. Deduct \$90 work-related expense for each working adult in the eligibility group from that person's earned income. (The deduction cannot exceed the amount of earned income.)
3. Deduct actual child care costs (up to set limits) for each working adult in the eligible group.

4. Add the countable unearned income of the eligible group members. (If this includes child support, remember to deduct the first \$50.)
5. Subtract child support paid by a member of the eligible group to a child living outside the home.
6. Compare the remainder to the Schedule of Living Cost for the eligible group size.
 - ◆ If the income is less than the Standard of Need and there is no income of excluded adults to consider, the family meets the income limits.
 - ◆ If the income is less than the Standard of Need but there is income of an excluded adult to consider, proceed to step 7.
 - ◆ If the income is over the Standard of Need, the family does not meet the income limits. It is not necessary to proceed to steps 7 and 8 even if there are excluded adults.
7. Determine the portion of income considered for ineligible stepparents, ineligible alien parents, or self-supporting parents of a minor, unmarried parent as discussed under **Diverting Income of Excluded or Ineligible Adults**, and add it to the eligible group's income.
8. Compare the combined total to the limit for the eligible group size.

Example 1:

Seth is being removed from his home, where he lives with his sister Sarah, their mother Betsy, and Betsy's companion Andy. Since Betsy and Andy share no common children and are not married, Andy is not in the eligible group, and his income is not considered.

Andy is employed full time. Betsy works part time, receiving \$400 per month in earned income. She also receives \$250 per month in child support from the father of Seth and Sarah.

Step 1. Countable earned income (Betsy's earnings):	\$ 400.00
Step 2. \$90 work related expense deduction (because Betsy works):	- 90.00
Step 3. Child care deduction:	- 0.00
Step 4. Countable unearned income (child support for Seth and Sarah, minus \$50):	+ 200.00
Step 5. Child support paid:	- 0.00
Step 6. Eligible group total:	= 510.00

Step 7 and 8 are not required, since there is no additional person whose income must be considered. Since \$510 (the balance) is less than \$849 (the Standard of Need for three people), Seth meets the AFDC income limits.

Example 2:

The family consists of Heather and John, who are married; their common child, Shania; Heather's son David, and John's son Junior. David is being placed into foster care.

David receives \$205 in Social Security benefits, and his mother earns \$900 per month at her job. John is also employed, receiving \$600 per month. Shania and Junior have no income.

Since there is a common child in the home, first consider whether Shania, the common child, is deprived. Her deprivation status will be whether she, John, and Junior will be included in David's eligible group.

Because there is no evidence of incapacity for either Heather or John, the only possible deprivation reason for Shania is unemployment or underemployment.

Begin by completing the financial need test as if Shania were the child under review.

Step 1. Countable earned income (Heather and John's earnings):	\$ 1500.00
Step 2. \$90 work related expense deduction (because both Heather and John work and earn at least \$90 apiece):	- 180.00
Step 3. Child care deduction:	- 0.00
Step 4. Countable unearned income (David's social security):	+ 205.00
Step 5. Child support paid:	- 0.00
Step 6. Eligible group subtotal:	\$ 1525.00

Step 7 and 8 are not required, since there is no additional individual whose income must be considered.

The eligible group's countable income of \$1525 exceeds the Standard of Need for five people (\$1092). Shania is not deprived.

Since Shania is not deprived, she is not included in David's eligible group, nor are her father, John, or her half brother, Junior. However, a portion of John's income will still be considered available to David's eligible group since John and Heather are married.

Next, the financial need test must be completed for David's eligible group (David and his mother).

Step 1. Countable earned income (Heather's earnings):	\$ 900.00
Step 2. \$90 work related expense deduction (because Heather works):	- 90.00
Step 3. Child care deduction:	- 0.00
Step 4. Countable unearned income (David's social security):	+ 205.00
Step 5. Child support paid:	- 0.00
Step 6. Eligible group subtotal:	\$ 1015.00

Step 7 and 8 are not required.

Although a portion of John's income would normally be considered, the eligible group subtotal (\$1015) already exceeds the Standard of Need for two people, \$719. David does not meet initial AFDC income requirements and cannot be IV-E eligible for the entirety of this out-of-home care episode.

Diverting Income of Excluded or Ineligible Adults

Legal reference: 441 IAC 41.7 as of July 16, 1996

The income of certain people who are not in the eligible group must be considered when determining the financial need of the eligible group. A portion of this income will be set aside to meet the needs of the person and the person's or her dependents; the remainder is considered unearned income to the eligible group. This process is called diverting income.

The income of the following persons must be considered available to the eligible group if they are not part of the group, but live in the home:

- ◆ Ineligible stepparents, if the stepparent's spouse also lives in the home;
- ◆ Self-supporting parents of a minor, unmarried parent in the eligible group;
- ◆ Parents excluded from the eligible group due to their ineligible alien status.

Use the following steps to determine how much of the excluded adult's income must be considered available to the eligible group:

1. Add the person's countable earned income.
2. If the person has earned income:
 - ◆ Deduct \$90.
 - ◆ Deduct actual child care costs the person pays.
3. Add the person's countable unearned income.

4. Deduct child support or alimony the person pays to someone living outside the home. (Note that child support or alimony paid by excluded stepparents or self-supporting parents of minor, unmarried parents does not have to be court-ordered in this calculation.)
5. Divert an amount for the excluded parent's needs as follows:
 - ◆ For excluded stepparents and self-supporting parents of minor, unmarried parents, divert the Standard of Need for the parent's group (the parent and the parent's children who are living in the home, but are not part of the eligible group).
 - ◆ For excluded ineligible alien parents, divert the difference between the Standard of Need for the eligible group with all ineligible alien household members (one or both parents and any minor ineligible alien children living in the home) included compared to these ineligible household members excluded.
6. The balance is the income considered available to the eligible group.

Example 1:

The household consists of Jon, his mother, and his stepfather. Jon's stepfather receives \$402 per month in VA benefits, which are countable as unearned income.

Step 1. Total countable income (stepfather's VA benefits):	\$ 402.00
Step 2. Work-related expense deduction:	- 0.00
Step 3. Child care expense deduction:	- 0.00
Step 4. Deduct child support or alimony paid:	- 0.00
Step 5. Divert for stepfather's group size:	- 365.00
Step 6. Balance available to eligible group:	= \$ 37.00

Example 2:

The household includes Mr. and Mrs. F and their four children. Both Mr. and Mrs. F are excluded from the eligible group. Mr. F. receives SSI and Mrs. F. is an ineligible alien. Mrs. F's gross monthly earnings are \$500. She pays \$100 child care per month. The family has no other income.

The eligible group consists of the four children. However, the income of Mrs. F, who is an ineligible alien, must be considered available to the group, after allowable diversions, as calculated below.

Step 1. Total countable income (Mrs. F's earnings):	\$ 500.00
Step 2. Work related expense deduction:	- 90.00
Step 3. Child care deduction:	- 100.00
Step 4. Deduct child support or alimony paid:	- 0.00
Step 5. Deduct the Standard of Need difference with the ineligible alien parent included (five people) and excluded (four people) (\$1092 - \$986 = \$106):	- 106.00
Step 6. Balance available to the eligible group:	= \$ 204.00

Example 3:

The household includes Mr. and Mrs. M and their 3 children. Mr. M and one of the children are ineligible aliens who must be excluded from the eligible group. Mr. M. earns \$1,000 gross per month. There is no other income to the family.

The eligible group consists of the 3 household members who are citizens (Mrs. M and 2 of the children). The income of Mr. M must be considered available to the group, after allowable diversions, as calculated as follows:

Step 1. Total countable income (Mr. M's earnings):	\$ 1000.00
Step 2. Work related expense deduction:	- 90.00
Step 3. Child care deduction:	- 0.00
Step 4. Deduct child support or alimony paid:	- 0.00
Step 5. Deduct the Standard of Need difference with the ineligible alien household members included (five people) and excluded (three people) (\$1092 - \$849 = \$243):	- 243.00
Step 6. Balance available to the eligible group:	= \$ 667.00

Income of excluded adults, after diversions, is added to the income of the eligible group. It is not necessary to gather the information required to include income of excluded adults if the income of the eligible group exceeds the Standard of Need before adding this income.

Diverting Income to Excluded Children

Legal reference: 45 CFR 233.20(a)(3)(ii)(c), (a)(3)(xiv) as of July 16, 1996,
441 IAC 41.7(11) as of July 16, 1996

Income calculations for Title IV-E differ in that the family is either above or below the income limit during the removal month. There is no benefit to making the family **more** under the income limit.

Diversions are not necessary if completing the diversion would not affect the outcome of the financial need test, for example:

- ◆ If the income of the eligible group is already below the Standard of Need, there is no need for a diversion to an excluded child in the home because the group has already passed the income test.
- ◆ Since there is a limit to the allowable diversion amount, diverting income may not be necessary for families whose income is significantly greater than the Standard of Need.

Income can be diverted to a child who is excluded from the group due to the child's ineligible alien status or a common child who was not deprived. Income cannot be diverted to children excluded due to receipt of SSI.

The maximum amount that can be diverted toward the excluded child is the amount of the child's needs. This amount is the difference between the Standard of Need if the excluded child were included, and the Standard of Need with that child excluded.

If more than one child is excluded, divert the difference between the Standard of Need if all the excluded children were included, and the Standard of Need with those children excluded.

When the household also includes other excluded members (e.g. an ineligible alien parent), the amount of the child's needs will already have been included when calculating the diversion for all the excluded members. See **Diverting Income of Excluded or Ineligible Adults** for more information on calculating the diversion when the household consists of both parent(s) and children who are excluded members.

If the eligible group's income exceeds the Standard of Need by more than the amount of the excluded child's needs, diverting income is not necessary.

When the excluded child is a **common child who is not deprived**, a diversion is allowed if the companion alone cannot sufficiently meet that child's needs.

Determine how much of the needs of the common child are already met by the companion's income and the common child's income. The remaining unmet needs of the child can be met by diverting the income of the parent in the eligible group.

First, determine the needs of the child (difference between the Standard of Need if the ineligible child were included and the Standard of Need with that child excluded).

Next, take the following steps to determine the unmet needs amount:

1. Start with the countable income of the companion.
2. Deduct the \$90 work-related expense if the companion has earned income.
3. Add the countable unearned income of the companion and child.
4. Deduct the Standard of Need for the companion and the companion's other children living in the home that are not part of the eligible group. The balance is the amount available to meet the needs of the excluded child.

5. Subtract the balance from the needs of the excluded child.
 - ◆ If the balance exceeds the needs of the excluded child, the parent may not divert to this child.
 - ◆ If an amount remains, this is the amount that can be diverted by the parent in the eligible group to meet the child's unmet needs. The diversion is applied after all other allowable deductions have been made.

Julie, the child under review lives with her mother Ms. B, her half-brother Jason (a common child who is not deprived), her mother's companion Mr. K, and his three other children. Ms. B earns \$815 per month. Mr. K earns \$1100 per month. There are no child care costs and no other income to the group.

After deducting the work related expense, the income of the eligible group (Julie and Ms. B) is only a few dollars over the Standard of Need, so a diversion may be helpful. ($\$815 - 90 = \$725 > \$719$ Schedule of Living for two people)

Because Jason, the common child, is not deprived, he has been excluded from Julie's eligible group. However, Ms. B may be able to divert income to Jason if his needs are not met by his own income combined with that of his father, Mr. K.

First determine the needs of the common child using the difference in the Standard of Need with and without Jason included:	\$ 849.00 - <u>719.00</u> \$ 130.00
1. Start with the earned income of Mr. K:	\$ 1100.00
2. Deduct the work-related expense for Mr. K:	- <u>90.00</u> \$ 1010.00
3. Add the unearned income of Mr. K and Jason:	+ 0.00
4. Deduct the Standard of Need for Mr. K and his three other children living in the home (four people). The balance is available to meet the common child's needs.	- <u>986.00</u> \$ 24.00
5. Subtract this balance from Jason's needs (as determined before step 1). This is the amount Ms. B can divert to meet Jason's unmet needs:	\$ 130.00 - <u>\$24.00</u> \$ 106.00
6. Since an amount remains, Jason has unmet needs and Ms. B may divert income up to this amount. Subtract this remainder from Ms. B's after-deduction income:	\$ 725.00 - <u>106.00</u> \$ 619.00
Ms. B is able to divert enough income to allow the eligible group to pass the financial test.	

For **ineligible alien children**, determine if the parent's income can be diverted to meet all or part of that child's needs by taking the following steps:

1. Determine the needs of the child (difference between the Standard of Need if the ineligible alien child were included and the Standard of Need with that child excluded). If more than one child is excluded, calculate the difference between the Standard of Need if all the excluded children were included, and the Standard of Need with those children excluded.
2. Subtract the child's countable earned and unearned income.
3. Balance is the amount the parent may divert toward the unmet needs of the ineligible alien child.

Gabby is the child under review. She lives with her brother Joseph, her mother Ms. Y, and her half-sister Valerie who is an ineligible alien. The eligible group's income is only a few dollars over the Standard of Need so a diversion may help the group. Valerie receives \$100 a month in child support from her father.

1. Determine amount of Valerie's needs (four person standard – three-person standard) (\$986 - \$849):	=	137.00
2. Subtract Valerie's unearned income (\$100 child support, \$50 of which is exempt):	-	50.00
3. The balance is the amount Ms. Y may divert toward Valerie's unmet needs:	\$	87.00

Resources

Legal reference: 441 IAC 41.6(1), 41.26(5), 41.6(6)“a” and “c” as of July 16, 1996, Public Law 106-109

To meet AFDC requirements, the countable value of the family's resources must not exceed \$10,000. **Note:** For children removed from the home before December 14, 1999, the resource limit is \$1,000.

Resources are defined as real and personal property that a person owns in part or in full and has control over (meaning it can be occupied, rented, sold, etc., at the person's discretion). The person has a legal interest in a liquidated sum and has the legal ability to make the sum available.

Count only resources available to members of the eligible group and any ineligible alien parent in the home. Do not count resources of people who are not in the eligible group, such as SSI recipients, ineligible stepparents, and self-supporting parents of minor, unmarried parents.

When determining the value of a resource, use equity value. The equity value is the value of the item, minus any lien or amount owed on the item. For example, if a property value is \$150,000, but \$125,000 is still owed to the bank on the mortgage, the equity value of the property is \$25,000 (\$150,000 - 125,000 = \$25,000).

If the combined value of countable resources for the eligible group exceeds the resource limit in the removal month, the child cannot be eligible for Title IV-E for the entire out-of-care episode.

Note that countable income received during the removal month should not be considered part of the family's resources. However, countable income received in prior months and still remaining as of the removal month (for example, a nonrecurring lump sum), should be counted as a resource, unless converted to one of the exempt resource types discussed below.

In general, a resource is **countable** if it is accessible during the removal month. Common countable resources include:

- ◆ Cash on hand or in accessible bank accounts, including individual development accounts
- ◆ Accessible stocks, bonds, mutual funds, retirement accounts, contracts, trusts
- ◆ The blue book trade-in value of motor vehicles, minus \$1500 from the value of the first vehicle
- ◆ Real estate property not considered the family's primary residence, such as income property or vacation homes
- ◆ Cash value of life insurance policies

The following are **exempt** resources, or resources that do not count toward the allowable resource limit for the eligible group.

- ◆ The family home and items used to maintain the home as well as to accommodate, comfort, and entertain the occupants. This may include personal effects such as food, clothing, jewelry, and similar items.
- ◆ Unavailable trusts and conservatorships, life estates, and jointly owned resources.
- ◆ One burial plot per eligible group member and burial trust value up to \$1500 (or up to an unlimited amount if the burial trust is irrevocable).
- ◆ Items related to self-employment, such as tools of the trade, vehicles owned for this purpose, and farm inventory used to produce income.

Verification and Documentation of Financial Information

A child may be considered to meet AFDC relatedness where there is a preponderance of evidence that the child meets the requirements of the AFDC program, and the information available to the IM IV-E worker through available systems and agency sources is supportive of this conclusion.

A primary source of financial documentation for IV-E IM workers is the Medicaid application. However, this document is not always fully or carefully completed, and more information may be needed for completion of the IV-E determination.

When the Medicaid application provides insufficient documentation, approach case determinations using the “preponderance of evidence” model. This approach acknowledges that exact income or detailed income documentation is often not available for a IV-E decision, and allows you to make a decision of AFDC relatedness based upon information from a variety of different sources.

Information provided by social work staff, combined with the information available on automated systems, is sufficient to make an eligibility determination in most cases. Where at all possible, use at least two sources of documentation to reach conclusions regarding the financial need of the family.

The following may be used as a guide for collecting financial information:

- ◆ Check state systems to see if the family has received other benefits (such as Food Assistance or FIP) and request pay stubs, income declarations, or other information from those sources.
- ◆ Query into state systems such as the motor vehicle registry to verify resources.
- ◆ Use the state labor file as the source for income when other available sources do not contradict the information in the state labor file.

- ◆ Obtain the self-declaration of income the parent has made:
 - To the court in requesting legal assistance,
 - To the social worker, or
 - In the work history portion of a psychological assessment.
- ◆ Contact the child's social worker to clarify information that may not have been included on the application.
- ◆ Use case narratives, social histories, and case plans to document the parent's employment or lack thereof, or to establish the family's financial situation.
- ◆ Contact parties outside the agency only as a last resort when the child is not clearly eligible and cannot otherwise be made eligible.

The "preponderance of evidence" approach further allows IM workers to assess critical situations and come to a determination based on case information. When available information has been gathered, consider the following questions to determine if sufficient information exists to finalize the conclusion on AFDC relatedness:

- ◆ Would a reasonable person conclude that the family's income and resources were within or over AFDC limits?
- ◆ If the child is living with the parent, is there a reasonable explanation for how the family is obtaining basic life necessities such as food and shelter, or alternately, evidence that they have not been able to obtain such necessities?
- ◆ Do the living circumstances of the family reasonably match with the reported income of the family?
- ◆ Are you aware of any unexplained information that would contradict a finding of AFDC relatedness?

1. Sondra, 4, is removed from her mother's care in July. It is reported that Sondra and her mother lived in a shelter in April, but moved and have been living on the streets or staying with friends ever since. Sondra's father is unknown, and her mother has a long history of substance abuse.

The state wage system shows no wages for Sondra's mother in the past year, and the social worker reports that Sondra's mother had not been working since she was terminated from her last job.

The information above, in the absence of information to the contrary, provides a preponderance of evidence that Sondra met AFDC income limits. She and her mother were homeless at the time of removal; there is no evidence that her mother was employed.

2. Joy is removed from the care of her father and placed into out-of-home care. The petition notes that Joy's father works in construction, but the state wage file does not show any employment for the father, so his wages cannot be confirmed through that system.

To make a decision on Joy's case, the IM worker attempts to resolve the conflict regarding the father's employment by contacting the caseworker, who asks the father for more information. The father refuses to provide his employer or income information. Unable to resolve the conflict, the IM worker made the case ineligible.

3. Charlie, 8 years old, is removed from the care of his grandmother, the CTW home. Charlie does not have any brothers or sisters living in the home.

The Medicaid application completed by the SWCM is largely blank, but does not indicate any income for Charlie. A check of available state systems shows no known income for Charlie, and the grandmother does not receive any Medicaid or FIP for him.

Since Charlie is a minor and minors commonly do not have income other than unearned income that would appear on state systems, it is reasonable to conclude that Charlie meets AFDC income and resource limits without contacting further sources.

Claimable Placement

Legal reference: 42 USC 672 (b), 45 CFR 1355.20

A child cannot be claimed to IV-E unless the child is living in a “claimable” placement. For a placement to be considered a claimable one, it must be both a claimable type of facility **and** a fully licensed one.

When completing an initial determination, the IV-E IM worker must examine the child’s placement type and determine if it is a claimable placement. Placement of the child will be examined on an ongoing basis throughout the child’s out-of-home care episode.

If a child fails to meet the claimable placement criteria, the child may not be claimable, but the child may become IV-E claimable when the child moves to a claimable placement provided all other IV-E requirements continue to be met.

This section will discuss types of out-of-home placements and the licensure standards for claimable placements.

Licensure Status

Like many other federal programs, Title IV-E depends on the state to establish and implement standards for its providers to ensure the safety of clients. A placement may be considered a claimable placement only if the facility meets the full state standards for licensure.

If the child is placed in otherwise claimable placement that is not fully licensed, the child may not be claimed to Title IV-E while in that placement. Note that a provisionally licensed foster home is not considered fully licensed and should be treated as not licensed while in this status. Children placed in relative homes can be claimed to IV-E only if the relative is a licensed foster care provider.

If the license of the provider lapses or goes in effect during the month being considered, the child may be claimed to IV-E during that entire month, provided the child remained in that placement during the whole month. However, if the license has not been in effect at any time during the calendar month, the child may not be claimed during that month while in that placement.

REQUIREMENTS FOR INITIAL ELIGIBILITY**Claimable Placement**

Revised July 20, 2004

Iowa Department of Human Services

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If claiming is suspended due to licensure status, it may resume during the same out-of-home episode once the placement is fully licensed again, or the child moves to a claimable placement.

Type of Placement

In addition to being a licensed placement, the type of placement must also be considered. A child placed in a non-claimable type of placement cannot be claimed to Title IV-E while placed there, even if it is a licensed setting. However, the child will become claimable if the child is later placed in a claimable placement, and other IV-E requirements continue to be met.

Non-Claimable Placement Types	Claimable Placement Types
<ul style="list-style-type: none"> ◆ “Highly structured” group care (boot camps) ◆ Supervised apartment (independent) living ◆ Hospital ◆ Psychiatric medical institutions for children (PMIC) ◆ State mental health institutes ◆ Parents (on a trial home visit) ◆ Relatives (when not licensed) ◆ Non-relative or suitable person (when not licensed) ◆ Detention ◆ Other juvenile correction settings, e.g.: <ul style="list-style-type: none"> • The Iowa Juvenile Home in Toledo • The State Training School in Eldora 	<ul style="list-style-type: none"> ◆ Foster family care (related or non-related) ◆ Residential treatment, including: <ul style="list-style-type: none"> • Comprehensive • Community treatment • Enhanced group care ◆ Shelter care ◆ Pre-adoptive home

The IV-Eligibility Unit maintains a list of claimable and non-claimable placements. If the status of a facility is in question, contact IV-E program staff in central office.

When a child is in day treatment, the child is not considered in placement, since the child returns home each night. This is not a placement setting.

Child's Income and Resources

Legal reference: Public Law 106-109, ACYF PIQ 85-07, ACYF PIQ 86-03

If the household meets AFDC eligibility requirements, then the child's income and resources need to be examined both at initial placement and on an ongoing basis. To be claimed to IV-E, the child's individual income must fall below 185% of the foster care rate for the child's placement and the child's individual resources must be less than \$10,000.

During the initial determination, examine whether the child's income during the child's first month of placement is less than 185% of the child's maintenance cost (maintenance payment x 1.85). Then examine whether the child's resources are less than the \$10,000 limit.

Note: The financial circumstances of the child's parents and siblings are not considered in these calculations even if the siblings are placed together in the same foster home.

Children in foster care rarely have income or resources that exceed the limits, even if they have income. Some possible income sources are child support payments (minus the \$50 exemption) and Social Security death benefits. The \$50 child support exemption is applied individually for each child when calculating the child's income.

Craig is the child under review. The household consists of Mrs. K and her three children, Bob, Matt, and Craig. Mrs. K receives \$180 per month total child support on an even obligation for all three children. To calculate Craig's portion of countable child support: $\$180 \div 3 = \60 - \$50 exemption = \$10 countable income for Craig.

A child in out-of-home care might earn income from employment, but if the child is a full time student, this type of income is exempt.

See **Financial Need: Income** and **Financial Need: Resources** for more information on countable versus exempt income and resources.

SSI income is also exempt although SSI recipients are subject to special considerations. See **Recipients or Potential Recipients of SSI or Social Security Benefits**.

When a child in out-of-home care receives a recurring or nonrecurring lump sum payment, this income may create a "period of ineligibility" for the child. The lump sum is prorated and applied over a number of months to create the period of ineligibility.

Recurring and nonrecurring income are treated differently.

- ◆ Recurring lump sums are prorated by the number of months for which they are received, or by the number of months they are intended to cover. (Remember that earned income of a full-time student is exempt.)
- ◆ Nonrecurring lump sums are prorated by dividing the child's total countable income for the month, including the nonrecurring lump sum, by 185% of the maintenance payment for the child in the month of receipt.

(See **Lump-Sum Income** for more detail on how to determine if a lump sum is recurring or nonrecurring.)

The lump sum is prorated and applied to the month of receipt and future months. Each full month covered is considered part of the ineligible period. the child may not be claimed to IV-E during the ineligible period. See the example below for further clarification.

Jimmy is an otherwise IV-E-eligible foster care child. In January 2003, he receives retroactive Social Security payments of \$2000. His monthly Social Security benefit is \$200.

The total of his regular monthly income (\$200) plus the nonrecurring lump-sum payment (\$2000) is prorated by dividing by 185% of his monthly maintenance payment of \$428 to determine the ineligible period. ($\$428 \times 185\% = \791.80) ($\$2200$ divided by $\$791.80 = 2.7$ months). For January and February 2003, Jimmy cannot be claimed to IV-E.

If a child fails either the income or resource test, the child shall not be claimed to IV-E, but the child may become IV-E-claimable in a future month when the child's income or resources fall below the limits.

Effective Date of IV-E Claiming

Legal reference: ACYF PIQ 91-05

A child's initial eligibility is established if the child meets the initial eligibility criteria described in these sections:

- ◆ **Legal Authority and Judicial Language Criteria**
- ◆ **Removal From a Specified Relative**
- ◆ **AFDC Relatedness**

If the child meets the additional the criteria discussed in these sections, the child may be claimed to IV-E:

- ◆ **Claimable Placement**
- ◆ **Child's Income and Resources**

The effective date of IV-E claiming is the first day of the month in which all of the initial eligibility and claimability requirements were met, or the date of placement in a claimable facility if in the same month.

If any of the initial eligibility criteria listed above are not met, the child will never be eligible during this foster care episode since these requirements are based on a fixed point in time. However, if the child does not meet the claimability criteria, the child's claiming may begin as soon as both of those requirements are met.

Once the child is initially eligible, the child's eligibility continues until a change occurs that affects eligibility, as discussed under **REQUIREMENTS FOR ONGOING ELIGIBILITY**.

1. Ted, age 10, is removed from the CTW home of his mother by a court order with acceptable CTW and RE1 language. AFDC criteria are met because Ted met the age criteria, he was a U.S. citizen, his father was absent from the home, and neither he nor his mother had any countable earned or unearned income to consider.

Ted is removed on July 22, 2003, and placed in the home of his aunt who was not a licensed foster care provider. On August 7, 2003, Ted is placed in a licensed foster family care home. Ted continues to have no personal income and resources in August.

REQUIREMENTS FOR INITIAL ELIGIBILITY

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The removal month (when the AFDC requirements were considered) is July 2003, since Ted was removed July 22, 2003. However, the effective date of IV-E claiming is August 7, 2003, since all of the eligibility and claimability requirements were not met until Ted was placed in a licensed foster home.

2. On April 27, 2003, Max is removed from his mother's home and placed in a foster home pursuant to a voluntary placement agreement. Max meets AFDC relatedness in his mother's home and has no income or resources of his own. Although the VPA shows an effective date of April 27, due to an oversight a DHS representative did not sign the VPA until May 10.

The removal month (the month for which the AFDC requirements were considered) is April 2003. However, the effective date of IV-E claiming for Max is May 1, 2003, the first day of the month in which all IV-E requirements were met.

Max cannot be eligible in the month of April, even though he was in a claimable placement, because the requirement for a valid VPA (part of legal authority and judicial language criteria) was not met until both DHS and the parent signed the form.

DETERMINING INITIAL ELIGIBILITY

The determination of IV-E eligibility is a joint process involving activities by IM and service staff. This section outlines the steps and responsibilities for initial eligibility determination when a child enters out-of-home care. An initial IV-E eligibility determination must be completed:

- ◆ For any child who is entering out-of-home care for the first time.
- ◆ When children are re-entering out-of-home care for a new out-of-home care episode after having been:
 - Adopted, or
 - Permanently returned to the care of a parent, guardian, relative, or other suitable person. (See discussion in **Child in Home of Parent (Trial Home Visit)** to determine if a return home was on a trial basis or permanent basis.)

The removal of the child should occur pursuant to a court order granting responsibility for placement and care of the child to DHS or JCS, or a voluntary placement agreement that is signed by the parent or guardian and DHS, granting DHS authority to place the child.

When the child enters out-of-home care for the first time or after a permanent return home, the child’s IV-E status must be determined based upon the circumstances of the home from which the child was removed and the authority for removal. To make this determination, the IV-E IM worker relies upon information provided by the SWCM or service area liaison, as follows:

Staff Responsible	Tasks
SWCM or service area liaison	<ul style="list-style-type: none"> ◆ Gathers household demographic and financial information at the time of removal. ◆ Sends the court order or VPA that authorized removal to the IV-E IM worker, along with the completed form 470-3839, <i>IV-E Initial Placement Information</i>, with Section One completed. ◆ Completes FACS system entries of all information. (After entry to the SERL screen, the FACS system generates Report S472N111-01, <i>Foster Care/Subsidized Adoption Exchange</i>, printed on blue paper, to notify the DHS local office that a case has been opened. This report must be forwarded to the IV-E IM worker.) ◆ If the child is not currently receiving Medicaid, sends form 470-2927 or 470-2927(S), <i>Health Services Application</i>, to the family or completes it with the family and sends completed application to the IV-E IM worker. ◆ Sends subsequent court orders to the IV-E IM worker.
IV-E IM worker	<ul style="list-style-type: none"> ◆ Reviews materials received from the SWCM or service area liaison and the family for completeness and requests any information needed to complete determinations. Additional requests are directed to the SWCM or service area liaison. ◆ Reviews the legal documents to ensure that legal authority and judicial determination requirements are met. ◆ Establishes AFDC relatedness for the child. ◆ Reviews other criteria discussed in REQUIREMENTS FOR INITIAL ELIGIBILITY.

DETERMINING INITIAL ELIGIBILITY**Eligibility File**

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Iowa Department of Human Services

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Staff Responsible	Tasks
IV-E IM worker (cont.)	<ul style="list-style-type: none"> ◆ Completes form 470-3839, <i>IV-E Initial Placement Information</i>, and form 470-3837, <i>Foster Care IM Worksheet</i>, documenting IV-E eligibility. ◆ Notifies the SWCM or service area liaison of the outcome of the IV-E eligibility determination. ◆ Completes the IVED screen in FACS and the IV-E tracking database. ◆ Establishes the child's Medicaid status according to procedures in Chapter 8-H.

Eligibility File

The IV-E IM worker maintains an eligibility file that must contain all the documents required to support the IV-E determination. When multiple siblings from the same family are removed, create a separate eligibility file for each sibling.

The purpose of the eligibility file is to keep in one location all of the documents required to substantiate the child's eligibility status should the case be audited or reviewed by internal or external auditors. The eligibility file will contain not only information from the initial determination, but also information showing continued reviews of the child's IV-E status.

Most importantly, it will include form 470-3839, *IV-E Initial Placement Information*, the certification form for the initial IV-E determination. For IV-E changes and annual reviews that are discussed later in this chapter, form 470-3918, *IV-E Changes*, is the certification of eligibility and must be included in the file.

In addition, the file should include other critical documents that prove the child meets or does not meet the IV-E requirements considered during the initial determination and on an ongoing basis.

At minimum, the eligibility file should contain the following in support of the initial determination:

- ◆ Form 470-3839, *IV-E Initial Placement Information*.
- ◆ Medicaid application, or SDX if the child is an SSI recipient.
- ◆ Court order or voluntary placement agreement that authorized removal of the child.
- ◆ Subsequent court orders with required IV-E judicial determinations and responsibility for placement and care if not in the initial court order, and any accompanying *IV-E Changes* form. (If a required judicial determination was not made, include all court orders issued within the allowable period to demonstrate that none contained the required determination.)
- ◆ Documentation and verification of income and resources for the eligible group, including the child in placement.
- ◆ Form 470-3837, *Foster Care IV-E IM Worksheet*.

At minimum, the eligibility file should contain the following in support of any IV-E change:

- ◆ Form 470-3918, *IV-E Changes*; and
- ◆ Supporting documentation provided by the SWCM or service area liaison.

At minimum, the eligibility file should contain the following in support of the IV-E annual review:

- ◆ Form 470-3918, *IV-E Changes*;
- ◆ Form 470-2914, *Foster Care and Subsidized Adoption Medicaid Review*;
- ◆ Court order showing continuing responsibility for placement and care;
- ◆ Court order with RE2 determination;
- ◆ For VPA removals, court order with CTW/BI determination, if not previously established;
- ◆ Documentation and verification of child's income and resources; and
- ◆ Documentation and verification of continuing deprivation.

The eligibility file may also contain other supporting information and forms intended to support eligibility or track eligibility activities, for example, the IV-E History (face sheet), form 470-0275, *Family Composition*, correspondence with the SWCM, or other documents as appropriate.

Recipients or Potential Recipients of SSI or Social Security Benefits

When children in the care of DHS receive SSI or Social Security benefits, DHS applies to become the payee for the child's benefits. If the child receives SSI, the child's IV-E and Medicaid will also be treated differently than other children.

When the SWCM believes that a child entering out-of-home care may be eligible for SSI or Social Security benefits, the case should be referred to Maximus SSI Advocacy Project. DHS contracts with Maximus to:

- ◆ Make an SSI application for children they believe meet the requirements.
- ◆ Make a Social Security application for children they believe meet the requirements.
- ◆ Complete the change of payee form to allow DHS to receive SSI or Social Security benefits, to offset the cost of out-of-home care.
- ◆ Determine whether SSI or IV-E should be used to offset the cost of out-of-home care.

The SWCM should make a referral to Maximus SSI Advocacy Project when:

- ◆ The child is already receiving SSI or Social Security benefits and is expected to be out of the home for more than 90 days.
- ◆ The child has significant physical or mental health problems. (The child may be eligible for SSI.)
- ◆ The child's parent is deceased. (The child may be eligible for social security.)
- ◆ The child's parent is currently retired or disabled, but has a history of working. (The child may be eligible for social security.)

A referral to Maximus may be made by telephone, FAX or E-mail, or by mailing form 470-3361, *SSI Advocacy Project Referral*. (See 18-Appendix for a form sample and instructions for submitting information to the contractor.)

In most cases, a child for whom application for SSI is being made will receive IV-E payment before being determined eligible for SSI.

An employee of the Social Security Administration may contact a caseworker requesting the amount of IV-E received for a child, as this affects the child's benefits. Advise the Social Security representative to call Maximus SSI Advocacy Project at 1-800-778-1406 for this information. Do not provide information from FACS or other data systems, as this data may not be delineated by fund source.

When a foster child receiving SSI or Social Security benefits changes placement or leaves out-of-home care, Maximus SSI Advocacy Project must be notified immediately by telephone, FAX, E-mail, or mailing form 470-3359, *Placement Changes*. (See 18-Appendix for a sample and instructions.)

Administration and Training Funding and Medicaid for SSI Children

Legal reference: ACYF PA 01-02

If a child receives SSI, determine Medicaid eligibility under the SSI coverage group (aid type 64-0) regardless of the child's IV-E status.

IV-E administration and training funds may be claimed for children receiving SSI provided the child meets all the requirements for IV-E out-of-home care maintenance payments. Maintenance payments may not be claimed while SSI is received for the child.

Determine eligibility for IV-E in the usual manner, but ignore the SSI payment. If the child would be IV-E but is getting SSI and thus precluded from IV-E maintenance funding, consider the child to be eligible for IV-E administrative and training funding. Code the ELIGIBILITY FOR IV-E ADMINISTRATIVE FUNDING fields on TD04 screen in the ABC system as "yes."

Child Currently Receiving FIP

Legal reference: ACYF PIQ 91-05

When a child leaves the FIP home to enter out-of-home care, notify the local office to remove the child's needs from the grant effective the first day of the following month. System requirements may delay the effective date until the first day of the second month after the month in which the child left the home.

Complete the IV-E eligibility determination. If all IV-E eligibility requirements are met, the child can begin receiving IV-E in the month of removal. IV-E funding can be claimed beginning the first day of the month in which all IV-E eligibility requirements are met, but no sooner than when the child enters IV-E claimable placement. This is regardless of whether the child is receiving FIP at the time of removal.

1. A child is removed from a FIP home on March 29. It is too late in the month to cancel the child's April FIP payment. Assuming all IV-E requirements are met, IV-E can be claimed for the child from the beginning of the child's episode of out-of-home care, March 29.
2. A child and mother are receiving FIP. The child is removed from the mother's home and placed in out-of-home care on April 10. The removal of the child makes this mother ineligible for FIP and the FIP case is closed effective May 1. It is determined that the child meets all of the IV-E eligibility requirements. IV-E claiming is effective April 10, given all other IV-E requirements are met.

Child of a Minor Parent in Out-of-Home Care

Legal reference: 42 USC 672 (h)

If a child's parent is a minor, the treatment of the child's case will depend upon whether the child is placed separately from the child's minor parent.

◆ **Child placed with minor parent.**

If the minor parent is in out-of-home care with the child and both parent and child are under the placement and care responsibility of DHS, a separate IV-E determination needs to be completed on both the minor parent and the child.

If the child is **not** under the placement and care responsibility of DHS, and a payment is made to the minor parent's care provider that covers both the child and the parent, this payment (including the portion for the baby) may be claimed to IV-E if the minor mother is IV-E claimable. Since the child is not in out-of-home care, a IV-E determination is not necessary on the child of the minor parent while the child stays with the minor parent.

If minor parent and child are placed in out-of-home care together, two Medicaid cases should be established. The only situation where both the minor parent and child can be set up on one Medicaid case would be if the order places both in out-of-home care and there is no IV-E eligibility.

◆ **Minor parent and child placed separately.**

If DHS did not previously have responsibility for placement and care of the child of a minor parent, an initial IV-E eligibility determination must be completed when that child is removed from the minor parent just as if the child were removed from a non-foster-care home.

This includes situations where the child is removed from the care of a minor parent who is placed in out-of-home care, and situations where the child is removed from the care of a minor parent who remains in the minor parent's own home.

Use the following guidelines when determining eligibility for a child removed and placed separately from the child's or her minor parent:

- The child's IV-E status is based on the factors surrounding the child's removal. The child's or her IV-E status is not related to the minor parent's IV-E status.
- If the child is removed from a minor parent in out-of-home care, consider only the income and resources of the child and minor parent when determining eligibility. Do not consider the out-of-home care maintenance payment as income when determining eligibility.

- If the care provider for the minor parent was previously receiving an enhanced payment that included the needs of the child, this payment should be reduced effective the date of removal. Any overpayments should be recovered.
- When the child is removed from a minor parent who remains in the minor parent's own home, the income of the parent of the minor parent may need to be considered. See **Eligible Group** for further discussion.

Retroactive Claims and Adjustments

Throughout the child's out-of-home placement, it may be necessary to make either positive or negative retroactive changes to the child's IV-E status. Examples of situations where this may occur include the following:

- ◆ An application for a social security number has not yet been filed, so the child cannot be set as IV-E-eligible in the FACS system.
- ◆ The child's initial eligibility is not established in the removal month.
- ◆ A change in the child's situation affecting the child's claimability status is not identified until after it occurs.
- ◆ Additional information becomes available which changes the child's eligibility or claimability status.

When this occurs, it is necessary to notify the IV-E Eligibility Unit of the need for a retroactive adjustment to the child's claiming. Contact the IV-E Eligibility Unit Policy Specialists in Central Office for the current retroactive claiming procedure.

Retroactive adjustments will be processed in FACS quarterly.

Out-of-State Placements

Responsibility for establishing and maintaining IV-E eligibility for children placed outside of Iowa and children placed in Iowa from other states is shared between the two states.

For purpose of discussion, the state the child was removed from is the “placing state” and the state the child is placed in is the “supervising state.” It is the job of the placing state to determine initial IV-E (and ongoing) eligibility and provide documentation of the determination to the supervising state.

◆ **When Iowa is the placing state**

When a child who is initially eligible in Iowa is placed in another state:

- The IV-E IM worker will determine initial IV-E eligibility based upon information provided by the SWCM or service area liaison, and provide documentation of the child’s IV-E status to the SWCM or service area liaison.
- The SWCM or service area liaison will provide documentation of the child’s IV-E status to the supervising state. The supervising state uses this information to acquire Medicaid in that state for the child.
- The IV-E IM worker will track the child’s ongoing eligibility and claimability in terms of ongoing deprivation, child’s income and assets, RE2, and type of placement, based upon information provided by the SWCM or service area liaison.
- The SWCM or service area liaison will ensure that the child’s placement is fully licensed to the standards of the supervising state.
- If a child is IV-E claimable, including placement in a licensed setting, a retroactive claim must be completed, as claiming will not be established in ABC to update FACS. See **Retroactive Claims and Adjustments**.

DETERMINING INITIAL ELIGIBILITY

Out-of-State Placements

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If the child is not IV-E eligible, the supervising state will generally not provide a Medicaid card for the child. The IV-E IM will be asked to process Iowa Medicaid for the child, and the SWCM will coordinate with the child's caregiver to facilitate medical care for the child.

◆ When Iowa is the supervising state

When a Title IV-E eligible child from another state is placed in Iowa, Iowa staff provide courtesy supervision of the child and home. Once documentation is received from the placing state that the child is Title IV-E eligible:

- The IV-E IM worker will set up Medicaid for the child; and
- The SWCM or service area liaison will provide documentation to the placing state that the child's placement is fully licensed on a continual basis, so that the placing state may claim IV-E for the child's placement costs.

If the child is not IV-E-eligible, the child's caretaker can apply for Medicaid through the local IM office if the caretaker is related to the child. Otherwise, the caretaker must work with the placing state to coordinate medical care for the child.

REQUIREMENTS FOR ONGOING ELIGIBILITY

If a child meets the initial eligibility requirements examined during the initial determination, there are several requirements for Title IV-E that must continue to be examined on an ongoing basis, as well as some that are considered only on an on-going basis. These requirements can be grouped into two types: ongoing eligibility requirements and claimability requirements.

When an ongoing eligibility requirement is no longer met, the child's eligibility ends for the remainder of the out-of-home care episode. If a claimability requirement is no longer met, the child's IV-E claims must be suspended until all criteria are met again. The criteria examined on an ongoing basis are summarized in the table below, and discussed in more detail in the sections that follow.

Requirement	Requirement Type	Explanation of Requirement
Age	Ongoing eligibility	The child must remain under age 18, or if 18, be a full time student expected to graduate by 19.
Continued responsibility for placement and care	Ongoing eligibility or claimability, depending upon situation	DHS or JCS must maintain responsibility for placement and care of the child, via court order or VPA.
End of trial home visit	Ongoing eligibility	Trial home visits are limited to six months.
Best interests within 180 days (VPA removals only)	Ongoing eligibility	For the child to remain eligible, there must be a court order containing CTW/BI language within 180 days of placement pursuant to a VPA.
Reasonable efforts towards the permanent plan (RE2)	Claimability	DHS or JCS must obtain a judicial determination to the effect that reasonable efforts have been made towards the child's permanent plan at least once every 12 months.
Ongoing AFDC relatedness	Claimability	The child must continue to meet AFDC requirements, including: <ul style="list-style-type: none"> ◆ Ongoing deprivation, based on the removal home. ◆ Financial need, based on the <u>child's</u> income and resources.
Claimable placement	Claimability	The child must be placed in a licensed, foster care type placement.

Changes That Permanently End Eligibility

Once a child is initially determined Title IV-E eligible, the child's eligibility must continue to be examined for the remainder of the episode of out-of-home care to ensure the child continues to meet Title IV-E requirements. Eligibility ends permanently (and reviews may cease) if one of the following changes occurs in ongoing eligibility criteria:

- ◆ The child reaches the age limit,
- ◆ The child is no longer under the placement and care responsibility of DHS (with one **exception**, as described below),
- ◆ The child was home on a trial visit for longer than six months, even if DHS placement and care responsibility was continuous, or
- ◆ The child was placed by a voluntary placement agreement, and CTW/BI language was not obtained within 180 days of the placement.

Child Reaches Age Limit

Legal reference: 441 IAC 41.1(1) and 41.4(1) as of July 16, 1996

A child can remain eligible for Title IV-E only if the child is under 18 or a full-time student and is reasonably expected to graduate secondary school or an equivalent level of vocational or technical training by age 19. Eligibility is permanently terminated on the last day of the month in which the child no longer meets this requirement.

A child who is over 18 must be enrolled full time in a secondary school, certified home schooling arrangement, or an equivalent level of vocational or technical training leading to a certification or diploma. If the child is working on a GED, enrolled in a "drop-in" school, or otherwise enrolled in a public educational program with irregular hours, the school determines whether the child's hours of attendance are considered full time.

Note that 18-year-old children must also agree to their continued placement in out-of-home care. If a child reaches 18 and still meets the school requirement, the child's continued eligibility is dependent upon the child signing a voluntary placement agreement for the child's continued placement. This is typically done on or just after the child's 18th birthday.

1. Joyce's eighteenth birthday is March 19, 2004. She is not in school or an equivalent program. The effective eligibility termination date is March 31, 2004.
2. Timothy turns 18 years old on April 22, 2003. He is just finishing the eleventh grade and is not expected to graduate until June 2004. Since he is not expected to graduate by his nineteenth birthday, the effective eligibility termination date is April 30, 2003 (the month of his eighteenth birthday).
3. Anna turns 18 on January 12, 2003. She is completing high school and expects to graduate in June. The effective eligibility termination date is June 30, 2003.

End of DHS or JCS Responsibility for Placement and Care

Legal reference: 42 USC 672 (a)(2)

A child can no longer be Title IV-E-eligible once DHS or JCS responsibility for placement and care has been terminated. Eligibility in these cases is permanently ended effective on the exact date the court ruled that DHS or JCS no longer has that responsibility, **with one exception**. Consider termination of responsibility for placement and care to have occurred in the following situations:

- ◆ The child is returned to the parent, guardian, or permanent home, and the court relieves the state of the responsibility to supervise the placement.
- ◆ Guardianship is transferred to another person, and the court relieves the state of responsibility to supervise the placement.
- ◆ Another family adopts the child and the child leaves out-of-home care. (The child can be considered for IV-E adoption eligibility if the adoptive family receives a maintenance subsidy.)

The exception to permanent termination of eligibility for the out-of-home care episode is when a voluntary placement agreement expires before the date a court order is obtained to continue DHS care and placement responsibility. Consider this a lapse, provided the child remained in out-of-home placement during that time.

The child may not be claimed to IV-E for the period between the last effective date of the VPA and the first effective date of the court order resuming DHS responsibility, but the child's claiming may resume as long as other ongoing requirements continue to be met. **This is the only situation in which a lapse in care and responsibility does not permanently end eligibility for the remainder of the out-of-home care episode.**

1. Gertrude enters out-of-home placement on June 25, 2001, and is initially Title IV-E eligible. She is adopted on September 16, 2002. Her effective eligibility termination date is September 16, 2002.
2. Blanche is initially Title IV-E eligible in foster care. On July 30, 2003, she is placed in her grandmother's home. However, the court orders DHS to continue supervising the placement. In a court order on November 11, the court ends the state's responsibility for placement and care of Blanche. Her effective eligibility termination date is November 11, 2003.
3. Sebastian is removed on June 9, 2002, by a 30-day voluntary placement agreement. He is placed in a foster home on that date where he remains continuously for a year. The last effective date of the VPA is July 8, 2002, but the first court order related to his placement is issued on September 3, 2002.

IV-E claiming is suspended effective July 9, 2002, and is reinstated on September 3, 2002, when DHS regains care and responsibility.

End of Trial Home Visit

Legal reference: 45 CFR 1356.21(e)

Title IV-E eligibility is permanently terminated for the remainder of the episode of out-of-home care when six months have elapsed since the child was returned home on a trial home visit, even if the court has not relieved the state of the responsibility for supervision. (See also **Child in Home of Parent (Trial Home Visit)**.)

Eligibility ends effective exactly six months from the date the child began the trial home visit. See the following examples:

1. Eddie, who is initially IV-E eligible, returns to his father's home on January 7, 2003. The court actively reviews the case and DHS retains responsibility for supervising the placement during the next year. At the end of the year, DHS responsibility is terminated and Eddie continues to reside with his father. His effective eligibility termination date is July 7, 2003.
2. Carrie's uncle is awarded guardianship of her on May 11, 2003. DHS continues to monitor the child in his home for the next year and half. Her effective eligibility termination date is November 11, 2003.

Best Interest Within 180 Days (VPA)

Legal reference: 45 CFR 1356.22(b)

For children removed by a voluntary placement agreement who remain in care longer than 180 days, Title IV-E requires that a judicial determination to the effect that remaining in out-of-home care is in the best interests of the child. Acceptable examples of "best interest/contrary to welfare" language are the same as CTW for initial eligibility in court-ordered cases, and may include statements such as:

- ◆ It is contrary to the welfare of the child to remain in the home.
- ◆ It is not in the child's best interest to remain in the parental home.
- ◆ The placement of said child is necessary for the child's protection.
- ◆ The child will be in imminent danger unless removed from the home.
- ◆ This least restrictive placement is in the best interest of the child.
- ◆ It is in the best interest of the child to remain outside the home.

(See **Contrary to Welfare/Best Interest Determinations** for more detail.) If this required judicial determination is not obtained within 180 days, eligibility is permanently ended effective on the 180th day after the child was placed out of the home. The child remains ineligible from the 181st day through the remainder of the out-of-home care episode. Example:

Leonard is placed pursuant to a valid VPA on August 9, 2002. An order with required CTW/BI language is not obtained within 180 days of this date. Leonard is no longer eligible as of February 5, 2003, the 181st day after his placement. Leonard cannot be eligible for the remainder of the out-of-home care episode.

Changes That Temporarily Suspend IV-E Claiming

In addition to the factors that can end Title IV-E eligibility, several other requirements must be monitored on an ongoing basis while the child remains in care. If they not met, a child's IV-E claiming is suspended until the month in which the requirement is met again. Ongoing requirements and changes discussed in the following sections include:

- ◆ Reasonable efforts toward a permanent plan (RE2)
- ◆ Ongoing AFDC criteria (including deprivation, child's income and resources, and SSI)
- ◆ Claimable placements

Reasonable Efforts Toward a Permanent Plan (RE2)

Legal reference: 45 CFR 1356.21(b)(2)

The agency with responsibility for placement and care of the child must make a permanent plan for every child, and must make reasonable efforts toward achieving that plan.

To ensure compliance with this dictate, DHS or JCS must obtain a judicial determination at least once every 12 months confirming that DHS or JCS has made "reasonable efforts toward a permanent plan," or RE2. RE2 must be obtained in a timely manner for any child remaining in out-of-home care, regardless of the type of placement the child resides in.

A judicial determination regarding RE2 must be obtained within 12 months of the date the child was first removed and placed in out-of-home care. Once RE2 is obtained, a new RE2 determination is due within 12 months of the last determination, even if the previous determination was completed early.

For cases that entered care before March 27, 2000, the first RE2 determination had to be obtained between the dates of March 27, 2000, and March 27, 2001, and subsequently every 12 months from the previous finding.

An RE2 determination covers the entire month in which it is obtained, including any remaining days in the month it is due and any days before the actual date it was obtained within the same month. A child's eligibility must be suspended for any full month in which RE2 was due but not obtained. See the following examples.

1. Patsy is removed from her home on January 15, 2001. The first RE2 order is due on January 15, 2002, but is obtained on November 15, 2001. The next RE2 order is due on November 15, 2002.
2. Burt is removed from his home on March 3, 2001. The first RE2 order is due on March 3, 2002, but does not occur until April 6, 2002.

There is no lapse in ongoing eligibility. Although the RE2 finding was due March 3, 2002, Burt remains claimable for the remainder of that month. The April 6, 2002, RE2 finding covers a full 12-month period, including the beginning portion of the month it was obtained.

3. Haley is removed on June 17, 2002. The first RE2 order is due on June 17, 2003, but does not occur until August 27, 2003.

Although RE2 was due June 17, 2003, Haley remains claimable for the remainder of that month. The August 27, 2003, finding covers the entire month of August 2003. However, there is a lapse in ongoing eligibility for the entire month of July 2003, so Haley is not claimable during the month of July.

Acceptable RE2 Language

A child may have any one of a number of permanency plans. To meet the RE2 requirement, the court must find that DHS or JCS is making efforts towards achieving the child's plan. A finding regarding reasonable efforts to reunify the child and family is also acceptable to meet this requirement.

The court may refer to the permanency plan, in general, or to a specific plan. Depending on how the determination is expressed, the order may stand on its own to meet the RE2 requirement. Other times, it may be necessary to include a case plan to demonstrate the intent of the language within the order.

Examples of acceptable language include:

- ◆ Reasonable efforts have been made to finalize the permanency plan.
- ◆ Reasonable efforts have been made to achieve the case goal (or permanency plan).
- ◆ Reasonable efforts have been made to reunify the child with the parents.

- ◆ Reasonable efforts have been made to achieve/finalize the goal of adoption.
- ◆ DHS has made all efforts towards finalizing another permanent planned living arrangement for the child.
- ◆ Reasonable efforts have been made to eliminate the need for the child's removal. These include supervised home visits, counseling services, etc.

To be acceptable for RE2, the finding must make clear that DHS or JCS is making efforts towards the child's permanency plan. Where the order references efforts made towards a specific plan, documentation of the child's goal may be required.

If the court order makes a statement that reasonable efforts were made towards a specific plan, such as reunification, adoption, guardianship, or another permanent planned living arrangement, this is acceptable to meet RE2 without additional documentation, provided the court order does not contain information which conflicts with this reasonable efforts statement.

If the order contains conflicting information regarding the goal and the efforts made, obtain a copy of the child's case plan or other documentation of the child's goal to make sure that the RE2 statement applies to the child's current plan or a plan that was in effect within the last 12 months. If at least one of the child's goals matches the goal referenced in the RE2 statement, the statement is acceptable to meet the RE2 requirement.

See the examples below for further clarification.

1. The court order states, "Reasonable efforts have been made towards adoption." But the order also contains facts that contradict this, including the fact that the child is happy with the child's foster parent, who is not interested in adoption.

A review of the child's case plan indicates that the child's case plan was adoption at one time, but has been another permanent planned living arrangement for the past six months. The RE2 statement does meet IV-E requirements because it references a goal that was in effect within the last 12 months.

2. The court order states, “Reasonable efforts have been made towards guardianship,” but also talks about efforts to reunify the child and the parents.

A review of the child’s case plan confirms that guardianship is the child’s goal. The RE2 statement is acceptable, but a copy of the case plan shall also be maintained in the eligibility file with the court order as documentation that the requirement is met.

Ongoing AFDC Criteria

AFDC criteria must continue to be met on ongoing basis for the child to remain claimable for Title IV-E. Age is the only ongoing AFDC criterion that permanently terminates a child’s eligibility when it is no longer met.

The other criteria of ongoing deprivation, child’s income and resources, and receipt of SSI may change from month to month. During any full month these requirements are not met, the child may not be claimed to IV-E.

Ongoing Deprivation

Legal reference: ACYF PIQ 85-07

For every month a child is in out-of-home care, deprivation must continue to exist in the home from which the child was removed. A child may continue to be deprived for the same reason the child was initially deprived, or for an alternate deprivation reason.

A child is considered deprived on a continuing basis once the parental rights of one or both of the child’s parents have been terminated. Otherwise, the definitions of each deprivation reason are exactly the same for initial eligibility and ongoing eligibility. Refer to **Deprivation** for detailed explanations.

Determine ongoing deprivation by asking, “If the child returned to the child’s removal home this month, would deprivation still exist in that home?” If the child would not be deprived if the child returned to the removal home in any given month, the child is not claimable in that month. IV-E claiming may resume for that episode of out-of-home care once deprivation exists again.

Note that if deprivation exists for part of a month, the child met this requirement for the entire month. Consider the following examples:

1. Abby is removed from her mother's home in April 2003. Her father is incarcerated and his release is not expected for at least another eight months. The initial deprivation reason is continued absence from the home.

On December 12, 2003, Abby's father is released from prison and moves back in with her mother. Neither of her parents is incapacitated and her mother now works at a job making well over the Standard of Need. Abby's parents are not getting along and sometime in late February 2004, her father moves out of her mother's home.

Abby meets the ongoing deprivation requirement from May 2003 to December 2003 and again from February 2004 forward due to absence from the home. Abby is not IV-E claimable for the full month of January 2003, because ongoing deprivation did not exist for the month of January.

2. Erica is removed from both her parents in March 2001. Her mother received SSI at that time, but the SSI benefit is discontinued in April 2002. Her parents still live together, and in April and subsequent months, her father earns more than the Standard of Need. On July 23, 2003, parental rights of both Erica's parents are terminated as she moves toward adoption.

The initial deprivation reason is incapacity of the mother. Erica meets ongoing deprivation requirements for this reason until December 2002, when her mother is no longer incapacitated. Erica is not claimable for Title IV-E from December 2002 to June 2003. Her IV-E claiming resumed in July 2003, when deprivation due to termination of parental rights is established.

3. Jim is removed from the home of his paternal aunt. Neither of his parents is living there at the time. Unless both parents later move into the aunt's home, ongoing deprivation due to absence will exist in the removal home.

Child's Ongoing Income and Resources

Legal reference: Public Law 106-109, ACYF PIQ 85-07, ACYF PIQ 86-03

The financial need requirements for continued IV-E claiming are that the child's individual income is below 185% of the foster care rate for the child's placement and the child's individual resources are less than \$10,000.

Determine if the child met these requirements for each month that the child is in out-of-home care in the same way they were determined initially. Children in foster care rarely have income or resources that exceed the limits, even if they have income. Some possible income sources are child support payments (minus the \$50 exemption) and Social Security death benefits. See **Child's Income and Resources** for more information and calculations.

The child is not IV-E-claimable in any month in which the child's income or assets exceed the limits, but claiming can resume for the same out-of-home care episode if this situation changes.

SSI

Legal reference: ACYF PA 01-02

Either SSI or Title IV-E can cover the cost of foster care for a child, but never both at the same time. For this reason, a child's maintenance costs cannot be claimed to IV-E in any month in which the child receives SSI benefits. However, if all other IV-E requirements are met, the administrative funding and training costs can still be covered by IV-E.

If SSI benefits stop during an episode of out-of-home care, IV-E claiming could resume if the child continues to meet all other ongoing IV-E requirements.

Claimable Placement

Legal reference: 42 USC 672 (b), 45 CFR 1355.20

A child can be Title IV-E-claimable only while in a licensed foster care setting. Since placements for children in out-of-home care are subject to frequent change, the child's claiming status may change any number of times during one out-of-home episode, depending on whether each new placement is a licensed foster care setting.

For each of the child's placements throughout the entire out-of-home care episode, follow the guidelines for placement eligibility described at **Claimable Placement**.

PROCEDURES FOR CHANGES AND REVIEWS OF ELIGIBILITY

Eligibility and claimability for IV-E out-of-home care must be reviewed once every 12 months, and more frequently if there are significant changes in the child's situation. Changes that must be reviewed without waiting for the 12-month annual review include:

- ◆ A judicial determination that “reasonable efforts have been made to achieve permanency.”
- ◆ A change in the placement or level of care of the child.
- ◆ A change in legal status where placement and care responsibility changes, including guardianship changes.
- ◆ A change in the income or resources available to the child.
- ◆ A change in the child's circumstances (e.g., school attendance).
- ◆ A change in the situation in the removal home that makes the child no longer deprived of parental support or care.

The following sections address:

- ◆ The process for annual IV-E reviews
- ◆ The process for responding to changes that may affect eligibility

See **DETERMINING INITIAL ELIGIBILITY** for discussion of procedural issues that apply to initial determinations, reviews, and changes.

Annual IV-E Reviews

Annual IV-E reviews are required after a child is initially determined IV-E-eligible (including children who were eligible except for receipt of SSI or ineligible placement), as long as the child's eligibility has not ended permanently, as discussed in **Changes That Permanently End Eligibility**.

Annual IV-E reviews are not required for children who have never been IV-E-eligible or will never again be IV-E eligible during this out-of-home care episode. **Note:** An annual Medicaid review is still required for these children.

IV-E IM staff initiate an annual IV-E review at the same time an annual review of the child’s Medicaid is completed. Doing these determinations at the same time is critical, because the child’s Medicaid status is based upon the child’s IV-E status.

Responsibilities for annual IV-E reviews are distributed as follows:

Staff Responsible	Tasks
IV-E IM worker	<ul style="list-style-type: none"> ◆ Sends e-mail to the SWCM listing the names of children with reviews due in the next month and the due date to return form 470-2914, <i>Foster Care and Subsidized Adoption Medicaid Review</i>, to the IV-E IM worker.
SWCM or service area liaison	<ul style="list-style-type: none"> ◆ Completes form 470-2914, <i>Foster Care and Subsidized Adoption Medicaid Review</i>, and returns it to the IV-E IM worker by the due date. ◆ Completes form 470-3918, <i>IV-E Changes</i>, as necessary and attaches any relevant court orders if not previously sent.
IV-E IM worker	<ul style="list-style-type: none"> ◆ If the SWCM or service area liaison doesn’t complete and return the review form, e-mails a reminder. ◆ Reviews the court orders provided by the SWCM or service area liaison for Best Interests, RE2, and continuing responsibility for placement and care. ◆ Reviews other requirements described at REQUIREMENTS FOR ONGOING ELIGIBILITY, taking into account information provided by the SWCM or service area liaison. ◆ Where forms are incomplete or financial information or court orders are needed to continue or establish ongoing eligibility or claimability, works with the service area liaison or SWCM to get necessary information before changing the child’s status. ◆ Completes form 470-3918, <i>IV-E Changes</i>, noting the areas that have changed and the final IV-E determination. ◆ If the child is no longer eligible or claimable, enters the change and reason into the IV-E tracking database, and submits a form for retroactive claiming or adjustment if appropriate.

Changes Requiring Review of IV-E Status

The child's IV-E status should also be reexamined when a change occurs in the child's case that could affect eligibility or claimability. Again, this review is not necessary if the child has never been IV-E-eligible or can never again be IV-E-eligible.

The SWCM or service area liaison's identification of a change in the child's case generally prompts this type of review. Changes that could affect eligibility include:

- ◆ A change in the child's placement or level of care.
- ◆ A change in responsibility for placement and care, e.g., an end to DHS supervision of a child's placement.
- ◆ A change in the income or resources available to the child.
- ◆ A change in the child's circumstances (e.g., school attendance).
- ◆ A change in the removal home that makes the child no longer deprived of parental support or care.
- ◆ The child leaving out-of-home care.

A review related to a change may also be prompted by a court order forwarded to the IV-E IM worker by the SWCM, or the IV-E IM worker independently becoming aware of a change on the case through some other channel.

The following chart describes responsibilities when the child's situation changes:

Staff Responsible	Tasks
SWCM or service area liaison	<ul style="list-style-type: none">◆ When one of the factors identified above changes, promptly completes section one of form 470-3918, <i>IV-E Changes</i>, and forwards to the IV-E IM.◆ When new court orders are received pertaining to a IV-E eligible child, forwards them to the IV-E IM.

Staff Responsible	Tasks
IV-E IM worker	<ul style="list-style-type: none"> ◆ If the SWCM or service area liaison sends form 470-3918, <i>IV-E Changes</i>, reviews reported information and determines if the change affects the child’s eligibility as discussed in REQUIREMENTS FOR ONGOING ELIGIBILITY. ◆ If the SWCM or service area liaison sends a court order, reviews the order for RE2 determinations. <ul style="list-style-type: none"> • Modifies the court event on the FCTL screen to indicate whether the order contained an RE2 determination. • FACS sends Report S472N111-01, <i>Foster Care/Subsidized Adoption Exchange</i>, to the IV-E IM worker indicating that the case needs to be reviewed if a positive RE2 entry is not complete by the RE2 due date. ◆ If the SWCM or service area liaison sends a court order, reviews the order for any change to placement and care responsibility or changes in placement that may not have been identified by the SWCM or service area liaison. ◆ If the child’s status has changed, enters the change and reason into the IV-E tracking database, and makes appropriate changes in the ABC system. Submits a form for retroactive claim or adjustment if appropriate.

OVERVIEW OF TITLE IV-E ADOPTION ASSISTANCE

The primary goal of the Title IV-E Adoption Assistance program is to provide financial and medical support to families who adopt children from the foster care system that might not otherwise be adopted. In certain situations, the benefits may be extended to private adoptions of special needs children. The benefits are an individual entitlement for qualified children, eligibility for which must be determined on a child-by-child basis by DHS.

Iowa operates a subsidized adoption program available to families who adopt special needs children. If the child meets the requirements of the federal Adoption Assistance program as outlined in this chapter, the state is entitled to federal reimbursement of a portion of the subsidy already being paid to the family.

Types of IV-E Adoption Assistance

A child may qualify for two types of federal adoption assistance under Title IV-E: reimbursement of nonrecurring adoption expenses and full reimbursement of the adoption subsidy.

The child has to meet certain requirements to qualify for nonrecurring expense reimbursement. The child must meet those same requirements, plus some additional requirements, for the state to seek reimbursement of the child's adoption subsidy.

Nonrecurring Adoption Expenses

Legal reference: 45 CFR 1356.41

Nonrecurring adoption expenses are one-time expenses, such as adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child.

If a child meets the general IV-E eligibility requirements discussed later in this section, the federal government will reimburse 50% of what the adoptive parents or the state of Iowa has paid to cover these expenses, up to \$2,000 for each adoptive placement.

IV-E Adoption Subsidy

Legal reference: 42 USC 673

Families who adopt children with special needs may also receive a monthly subsidy maintenance payment. The maintenance subsidy, when combined with the resources of the child and adoptive family, is intended to cover the ordinary and special needs of the adopted child.

The amount is determined through negotiation between the adoptive parents and DHS, but cannot exceed what the family would have received as a foster care maintenance payment.

If the child meets the IV-E adoption requirements discussed later in this chapter, approximately 60% of this subsidy maintenance payment can be claimed for reimbursement from the federal government.

Since children are often adopted at a young age and the subsidy maintenance continues for most children until age 18, federal funding of the adoption represents an enormous cost savings to the state.

Medicaid for Subsidized Adoptions

Legal reference: 42 USC 673 (b)

In addition to a maintenance subsidy, adoptive families receive Medicaid for the child. For the adoptive family, federal support of the adoption is particularly important because of this Medicaid.

If the child meets the IV-E adoption requirements, the child will be granted federally funded Medicaid, and this benefit will follow the child no matter where the family lives in the United States.

If the child does not meet the IV-E adoption requirements, the child will receive state funded Medicaid, which makes medical coverage more difficult if the family does not reside in Iowa or moves out of the state.

Overview of IV-E Adoption Requirements

For a child's nonrecurring adoption expenses to be claimed to IV-E, the child must meet four general requirements. For a child's subsidy maintenance to be claimed to IV-E, the child must meet the general requirements and also meet one of the four categories of adoption assistance.

These requirements are described in the table below, and discussed in detail in the sections that follow.

Requirement	Type	Explanation
Adoption subsidy agreement	General requirement	The adoptive parents and DHS must sign a subsidy agreement before finalization.
Special needs	General requirement	The child must meet all three components of special needs, including: <ul style="list-style-type: none"> ◆ Cannot or should not return to parents ◆ Efforts made to place without subsidy ◆ Difficult to place
Age	General requirement	The child must be under 18, although benefits may be continued to age 21 in special circumstances.
Citizen or qualified alien status	General requirement	The child must be a citizen or qualified alien.
• Child of a minor parent	One of four options	The child must reside with the child's IV-E claimable parent at the time of the adoption petition.
• SSI eligibility	One of four options	The child must be eligible for SSI at the time of the adoption petition.
• Previous adoption assistance	One of four options	The child must have received IV-E in a previous adoption.
• AFDC eligibility	One of four options	The child must meet some, but not all, of the IV-E foster care requirements. A child who was claimed to IV-E in foster care meets this category.

Comparison of DHS and Private Adoptions

While the eligibility requirements for nonrecurring expenses and IV-E adoption subsidy are exactly the same whether a child was adopted from DHS care or through a private agency, private adoptions present some unique challenges for eligibility determination.

Children adopted through DHS are already legally involved with DHS, with case records and legal files tracking the process leading up to the adoption. In contrast, in private agency adoptions DHS likely has had no prior involvement with the child, has no legal file, and has little information regarding the circumstances of the child's birth family.

Although this fact may make the eligibility determination process more difficult for private adoptions, those children can also be eligible for IV-E adoption provided the necessary documentation is obtained to demonstrate that the IV-E requirements are met.

Since federal funding will be beneficial to the adoptive family and represent a significant cost savings to the state, every effort should be made to obtain the information necessary to qualify the child for IV-E adoption.

GENERAL ADOPTION ELIGIBILITY REQUIREMENTS

There are four general requirements that must all be met by any child in order to qualify for federal IV-E adoption benefits. These include:

- ◆ An adoption subsidy agreement
- ◆ Special needs
- ◆ Age
- ◆ Citizenship or qualified alien status

If the child does not meet these requirements, the child cannot receive IV-E funding for nonrecurring adoption expenses and cannot be considered for IV-E reimbursement of the adoption subsidy. Each of these requirements is discussed in detail in the sections that follow.

Adoption Subsidy Agreement

Legal reference: 42 USC 673, 45 CFR 1356.40

The first general eligibility requirement is that both the prospective adoptive parents and a DHS representative must sign an adoption subsidy agreement before the finalization of the adoption. This requirement can be satisfied by:

- ◆ The subsidy agreement signed by the adoptive parents and DHS when the child is placed in the home as a pre-subsidy home (which shows the child's birth name); or
- ◆ The agreement signed just before finalization (which shows the child's adoptive name).

Either agreement may be used, provided it meets the requirements discussed above. To determine that this requirement is met, the IV-E IM worker must be able to confirm the date of the adoption finalization and the signature date for each party.

A child cannot meet this requirement and, therefore, **cannot be eligible** for any IV-E funding of the adoption if any one of the following is true:

- ◆ The adoptive parents or a DHS representative did not sign the agreement.
- ◆ The adoptive parents or a DHS representative signed the agreement after the adoption was finalized.
- ◆ The signature of the DHS representative or the adoptive parent was not dated, unless corroborating evidence of the signature date can be obtained.
- ◆ The subsidy agreement is not available.

Some service areas mail the subsidy agreement to the prospective adoptive parent for signature. If the agreement is missing the adoptive parent's signature or is missing altogether, the adoptive family may have a copy of the signed agreement. Contact the adoptive family before denying the case for failing to meet this requirement.

Special Needs

Legal reference: 42 USC 673 (c)

The second general requirement is the child must be considered to have special needs. Each individual child must meet all three federal special needs criteria to be considered a special needs child:

- ◆ The child cannot or should not be returned to the child’s parents;
- ◆ Efforts have been made to place the child without subsidy; and
- ◆ The child meets the definition of a “difficult to place” child.

Note that state policy also classifies children as “special needs” as a prerequisite for an adoption subsidy. However, the state definition corresponds with the federal “difficult to place” criteria. The IV-E IM worker must ensure that a child meets all three federal special needs criteria, even where DHS documents refer to the child as a “special needs” child.

Child Cannot or Should Not Be Returned to Parents

The federal government does not want to fund adoptions where returning home to the natural parent is still an option for the child. Therefore, for a child to qualify for IV-E assistance, the state must have made a determination before the finalization of the adoption that the child cannot or should not be returned to the child’s natural parents.

This requirement is met if any of the following is true for each of the child’s natural parents:

- ◆ DHS has filed for the termination of the parent’s rights, as evidenced by a petition for termination of parental rights (TPR).
- ◆ The rights of the natural parent have been voluntarily or involuntarily terminated before finalization of the adoption, as evidenced by the TPR order.
- ◆ The natural parent died before the finalization of the adoption.
- ◆ DHS has documented, before finalization, another reason why the child cannot or should not be returned to the child’s parents.

The state of Iowa will not allow a child to be adopted unless the above is true. However, documentation to prove this point must be maintained in the child’s eligibility file to demonstrate that this requirement is met for eligibility purposes.

Dominique is removed and placed into foster care after being abandoned by her mother with a family friend. Dominique's father has never been established. On June 14, 2003, DHS files a petition for termination of parental rights of both parents. Shortly after this, Dominique's mother consents to the TPR.

During the court proceedings, DHS has to demonstrate its efforts to identify and search for Dominique's father. On March 2, 2004, the court terminates the rights of both parents, and awards guardianship to DHS for purposes of adoption.

Dominique meets the "cannot/should not return to parents" criteria of special needs. Either the petition for TPR or the TPR order could be used as documentation.

Efforts Have Been Made to Place the Child Without Subsidy

Adoption assistance is intended to encourage the adoption of children who might otherwise not achieve this level of permanency. The federal government does not intend to subsidize the adoption of children for whom subsidy was not necessary for the child to be adopted.

Therefore, for the child to be considered "special needs," the state is required to determine before the finalization that a reasonable, but unsuccessful effort has been made to place the child without a subsidy. In certain situations, an exception to this requirement is allowed when it can be justified based on the best interests of the child.

Efforts Were Made

Efforts to identify adoptive homes willing to adopt without subsidy might include the use of adoption exchanges, photo listings, referrals to appropriate specialized adoption agencies, or other such activities.

The requirement for efforts to place a child without subsidy does not mean that DHS or the private adoption agency is required to "shop around" for a home that is willing to accept the child without a subsidy. If an appropriate home has been identified for the child and that home is unwilling or unable to accept the child without assistance, the requirement is also met.

Reasonable, but unsuccessful efforts have been made when:

- ◆ The prospective adoptive parent has indicated that they cannot take the child without a subsidy, as documented in the case file.
- ◆ DHS or private agency documentation demonstrates that the efforts were made to place the child without a subsidy, such as using the adoption exchange or photo listing.
- ◆ DHS or private agency documentation demonstrates other unsuccessful efforts made to place the child without a subsidy.

Exception Is Allowed

DHS is not required to make efforts to place the child without assistance if the child's best interests would conflict with those efforts.

Most commonly, a child would meet this exception if the child had significant emotional ties with foster parents who were also the prospective adoptive parents. A child being adopted by a relative would also meet this exception, given the federal mandate for states to preference placing the children with individuals related to the child.

1. Rachel is being adopted by her foster parent, with whom she has lived for three years. The SWCM provides information showing the DHS determination that adoption by her foster parents is in Rachel's best interests. Rachel meets the exception to the "efforts to place without subsidy" criteria.
2. Mr. and Mrs. Johnson are adopting George through a private agency, Smethers Adoption Services. Smethers has provided the application for the Johnson family, which shows that the Johnsons indicated a willingness to adopt a child with developmental disabilities, but only if a subsidy and Medicaid could be provided for the child.

George has Down's Syndrome, and, therefore, the Johnsons require a subsidy to adopt him. The requirement for efforts to place without subsidy is met.

Child is Considered “Difficult to Place”

Legal reference: 441 IAC 201.3(1), 42 USC 673

The agency is required to determine, before finalization, that a child is considered “difficult to place.” A child is considered “difficult to place” when there exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without Adoption Assistance or Medicaid.

In Iowa Administrative Code and other parts of this employee manual, this is referred to as “special needs.” The following factors and conditions are markers of a “difficult to place” child, under Iowa law:

A child is considered “difficult to place” if:

- ◆ The child has a medically diagnosed disability that substantially limits one or more major life activities, or requires professional treatment, assistance in self-care, or the purchase of special equipment.
- ◆ The child has been determined mentally retarded by a qualified mental retardation professional.
- ◆ The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child’s mental, intellectual, or social functioning, and for which the child requires professional services.
- ◆ The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child’s age and interferes significantly with the child’s intellectual, social, and personal adjustment.
- ◆ The child is age eight or over, and Caucasian.
- ◆ The child is age two or over, and a member of a minority race or ethnic group, or the child’s biological parents are of different races.
- ◆ The child is a member of a sibling group of three or more who are placed in the same adoptive home.

- ◆ The child is at high risk of having mental retardation, as determined by a qualified mental retardation professional; of having an emotional disability, as determined by a qualified mental health professional; or of having a physical disability, as determined by a physician.

Note: If such a child is diagnosed after finalization as having had the condition before finalization, the child may qualify for an adoption subsidy under state law, but this child's adoption subsidy can never be claimed to IV-E.

Before April 20, 2004, Iowa had a broader definition of "difficult to place." For subsidy agreements signed before that date, the following additional conditions or factors were used to define a "difficult to place" child:

- ◆ The child is a member of a minority race or ethnic group, or the child's biological parents are of different races (without age limit).
- ◆ The child is a member of a sibling group of two if one of the children meets any of the other "difficult to place" criteria.

1. Jasmine is a three-year-old African-American child. Jasmine meets the special needs criteria of "difficult to place" because she is a member of a minority race or ethnic group.
2. Dinah was born with a heart condition, and her caseworker reports that she requires use of a heart monitor at home and frequent check-ups with a heart specialist. Dinah meets the special needs criteria of "difficult to place" because of her heart condition, provided the caseworker can provide medical documentation showing the doctor's diagnosis and assessment that Dinah's condition requires purchase of a heart monitor.

Age

Legal reference: 42 USC 673 (a)(4)

The third general requirement is that the child must be under the age of 18 to be eligible for any assistance. Once a child is established as eligible, eligibility can continue past the age of 18 in certain circumstances. See **Termination of Assistance**.

Citizen or Qualified Alien

Legal reference: ACYF PA 01-01, Public Law 104-193

To receive nonrecurring adoption expenses, the child must be either a citizen or qualified alien before the adoption finalization, with one exception outlined below. A child who does not meet the citizen/qualified alien requirement may not receive nonrecurring adoption expenses and may not be considered for reimbursement of the adoption subsidy.

Children born in the United States or U.S. territories are citizens, as are children who have at least one parent who was born in the United States or a U.S. territory. Children who are naturalized citizens also meet this requirement.

The term “qualified alien” is defined in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), Public Law 104-193, and includes, but is not limited to, the following:

- ◆ A refugee admitted under federal law,
- ◆ Certain battered aliens or victims of a severe form of trafficking,
- ◆ Cuban or Haitian entrants, and
- ◆ Children legally admitted for permanent residence in the U.S.

(Refer to 8-L for a detailed discussion of the definition of a qualified alien.)

Qualified aliens under PRWORA are subject to a five-year residency requirement for most means-tested federal programs; however, IV-E was not included in this requirement.

Qualified alien children can qualify for IV-E adoption subsidy and nonrecurring adoption expenses even if they have resided in the United States for less than five years, unless adopted by an ineligible alien (one who does not meet the definition of a qualified alien). In this situation, the child would be subject to the five-year residency requirement.

The only exception to this requirement is that children who are declared orphans and brought to this country for the purpose of adoption may qualify for nonrecurring adoption expenses, provided they meet the other general IV-E requirements. They do not have to meet the definition of a citizen or qualified alien. However, these children may not be considered for full reimbursement of an adoption subsidy.

MAINTENANCE SUBSIDY REQUIREMENTS

Once a child has met **all** of the requirements under **GENERAL ADOPTION ELIGIBILITY REQUIREMENTS**, the child can be considered for reimbursement of the child's adoption subsidy through Title IV-E. Eligibility for IV-E adoption requires that the child meet the criteria for only **one** of four categories of assistance. The four categories are:

- ◆ AFDC-eligible
- ◆ SSI-eligible
- ◆ Previous adoption assistance
- ◆ Child of a minor parent

These categories and their requirements are discussed in more detail in this section. Most of these categories rely upon the child's situation at the time the adoption proceedings are initiated. The adoption proceedings are typically initiated when the prospective adoptive parent's attorney files a petition for adoption of the child.

It is standard practice for the petition for adoption to be maintained in both the child's foster care case file and in the adoption subsidy worker's file for DHS adoptions. For private adoptions, it will be necessary to request this document from the adoptive parents or licensed child-placing agency working with the adoptive family if the document is not already present in DHS records.

AFDC Eligibility

A child can be eligible for IV-E adoption subsidy if the child meets all of the general requirements and certain requirements related to the child's time in foster care. These include some, but not all, of the criteria used to determine eligibility for IV-E foster care.

This is referred to as the "AFDC-eligible" category, although the requirements go beyond the AFDC status of the child. To be eligible under this category, in addition to meeting the general requirements, the child must:

- ◆ Meet AFDC eligibility requirements at the time of removal;
- ◆ Meet AFDC continuing eligibility requirements at the time the adoption proceedings were initiated; **and**
- ◆ Meet certain requirements related to the method of removal from the home.

AFDC Relatedness at the Time of Removal

Legal reference: 42 USC 673 (a)(2)(B)

To qualify for the “AFDC-eligible” category of assistance, the child must be AFDC-related in the home from which the child was originally removed and placed into foster care. As with IV-E foster care determinations, the AFDC criteria used are in accordance with the AFDC requirements as in effect in July 1996. The criteria to be considered include:

- ◆ Removal from a specified relative.
- ◆ Financial need.
- ◆ Deprivation.

If the child was claimed to IV-E at some point while in foster care, this AFDC relatedness at removal requirement has been met. The initial determination documentation in the IV-E out-of-home care file can be used to demonstrate this requirement is met.

If the child was not IV-E while in foster care, or if the child’s IV-E status has never been determined, the criteria will have to be examined individually. The criteria are discussed in detail earlier in this chapter. Please refer to those sections for details on determining whether or not these criteria are met.

- ◆ For guidance related to removal from a specified relative, see **Removal From a Specified Relative**.
- ◆ Financial need is based on the income and resources of the eligible group in the home from which the child was originally removed and placed into foster care. For further instruction on determining financial need, see **Financial Need**.
- ◆ Deprivation is also based on the circumstances in the child’s removal home. For discussion of the deprivation requirement, see **Deprivation**.

AFDC Relatedness at the Time of Adoption Proceedings

Legal reference: 42 USC 673 (a)(2)(A)(i)

To qualify for the “AFDC-eligible” category of assistance, the child must continue to meet certain AFDC criteria at the point when the adoption proceedings are initiated.

These criteria include:

- ◆ Child’s income and resources.
- ◆ Ongoing deprivation.

Continuing financial need is based only on the child’s income and resources. Some possible income sources are child support payments (minus the \$50 exemption) and Social Security death benefits.

The child’s income is compared to 185% of the child’s maintenance costs. For children in pre-subsidy placements, their maintenance cost is the pre-subsidy maintenance payment before any reduction or adjustment due to other income the child receives. The child’s resources must be less than \$10,000. See **Child’s Income and Resources** for more discussion of this requirement.

Cody receives a monthly pre-subsidy maintenance payment of \$126, which has been reduced through the negotiation process because of the \$326 monthly social security check he receives. The IM worker verifies with the social worker that the child’s actual monthly maintenance cost is \$452. The child’s \$326 social security income is compared to 185% of the child’s full maintenance cost of \$452.

Continuing deprivation is based upon the continuing circumstances in the home the child was originally removed from. Typically, the rights of both parents will be voluntarily or involuntarily terminated by the time adoption is initiated. If this is the case, the continuing deprivation requirement is met. For further discussion of this requirement, see **Ongoing Deprivation**.

Removal by Voluntary Placement Agreement

Legal reference: 42 USC 673 (a)(2)(A)

If the child was removed from the home and placed into foster care pursuant to a voluntary placement agreement, certain requirements must be met for the child to meet the AFDC-eligible category of adoption assistance.

- ◆ The voluntary placement agreement must be a valid agreement, signed by both a DHS representative and the parent or legal guardian of the child. If signed by a legal guardian, proof of guardianship must be included in the eligibility file.
- ◆ The child must have been claimed to IV-E at some point during the child's foster care episode. (A retroactive claim can satisfy this requirement.)

A child who was placed by a voluntary placement agreement who was never Title IV-E-eligible in foster care, or who was never claimed to IV-E although actually eligible, cannot qualify for IV-E adoption based on the "AFDC-eligible" category. There is no alternative method for proving this requirement was met.

Note that many of the ongoing Title IV-E eligibility requirements do not necessarily apply in determining eligibility for IV-E adoption. For example, the child can qualify for IV-E adoption even though requirements related to best interests within 180 days, reasonable efforts towards the permanent plan (RE2), and continuous responsibility for placement and care have not been met.

For children placed by voluntary placement agreement, this requirement is met if the child's FACS payment history shows that the child was eligible and claimed to IV-E for at least one day during the child's foster care episode. It is not necessary to demonstrate the child's continuous IV-E eligibility.

Court-Ordered Removals

Legal reference: 42 USC 673 (a)(2)(A)

Children who were removed from the home by a court order can be eligible for IV-E adoption under the "AFDC-eligible" category if there was a judicial determination of contrary to welfare (CTW) in keeping with IV-E requirements. Language acceptable to meet this requirement is discussed in more detail in **Contrary to Welfare**.

If the child was IV-E-eligible while in foster care, this requirement has been met. If the child was not IV-E-eligible, or IV-E eligibility has never been determined, this requirement must be examined individually.

- ◆ For a child entering care before March 27, 2000, a CTW determination must be obtained within six months of the child's removal from the home.
- ◆ For a child entering care on or after March 27, 2000, a CTW determination must be obtained in the very first order authorizing the child's removal from the home.

Note that the IV-E foster care requirements for reasonable efforts to prevent removal and reasonable efforts towards permanency are not required for IV-E adoption. Likewise, the child's placement type and claim history are irrelevant for children removed by court order.

Even if the child was never eligible for IV-E foster care, the child can be eligible for IV-E adoption provided the requirements discussed in this section are met.

Voluntary Relinquishments

Legal reference: ACYF PA 01-01

A child who enters DHS or child-placing agency responsibility via a voluntary relinquishment (surrender of parental rights, voluntary TPR, or abandonment through Safe Haven law) may not qualify for IV-E adoption based on this removal authority.

The statutory requirements of IV-E necessitate that the child enter care via a voluntary placement agreement or court order, and a relinquishment does not meet the federal definition of either. If a child placed pursuant to a relinquishment, the only possibilities for making the child eligible for IV-E adoption are as follows:

- ◆ Try to qualify the child under a category other than the "AFDC-eligible" category.
- ◆ If there was a court order within six months of the date the child last lived with the child's parents that includes a CTW determination regarding the parents, treat this as a court-ordered removal. The child can be eligible under the "AFDC-eligible" category provided the other requirements discussed in the **AFDC Eligibility** section are met.

Note: This section is focused on children who enter care based on a relinquishment. This discussion does not include children who enter care through a court order but for whom a parent later voluntarily consents to termination of parental rights.

SSI Eligibility

Legal reference: 42 USC 673 (a)(2)(A)(ii)

A child who meets all of the general requirements may qualify for IV-E adoption subsidy if the child received or was eligible to receive Title XVI Supplemental Security Income (SSI) benefits. A Social Security Administration representative must make this determination no later than the date the adoption proceedings are initiated.

If the child meets this category of assistance, the child may qualify for IV-E adoption regardless of the circumstances surrounding the child's removal from the child's birth home and the child's Title IV-E status while in foster care.

In addition to meeting all of the general requirements, one of the following must be true:

- ◆ The child received SSI at the time the adoption proceedings were initiated, or
- ◆ The child met the requirements for SSI at the time adoption proceedings were initiated although benefits were not being paid at that time, or
- ◆ The child was approved as SSI eligible after the adoption petition was filed, but the retroactive period for which benefits were paid included the month the adoption proceedings were initiated.

Unlike determinations of "AFDC relatedness" for Title IV-E, a DHS representative may not conclude that the child met the eligibility requirements for SSI. Only a Social Security Administration representative may make this determination.

Use SDX information showing the child was in receipt of SSI as proof the child meets this requirement. Where the child is eligible for, but not receiving SSI, letters from the Social Security Administration or other documentation provided by Social Security will be required to prove the child qualifies under this category of assistance.

Note that if the child was not eligible for SSI, or if adequate proof of the child's status cannot be obtained, the child may still be eligible for IV-E adoption by meeting one other of the four categories of assistance.

An SSI application was submitted for George due to his Downs Syndrome. SDX does not yet show George as an SSI recipient. However, the licensed child-placing agency handling George's case has provided a letter from the Social Security Administration as well as a copy of the petition for adoption filed by the adoptive family's attorney. The letter noting George's approval for benefits is dated before the adoption petition.

Although George has never been in DHS care and the circumstances of his natural parents are unknown to DHS, he can qualify for IV-E adoption under the SSI category.

Previous Adoption Assistance

Legal reference: 42 USC 673 (a)(2)(C)

A child who meets all of the general requirements may qualify for IV-E adoption subsidy if the child received IV-E in a previous adoption that has dissolved. Although the reason the adoption dissolved is not relevant, possible situations include the death of the adoptive parent, disruption of the adoption after finalization, or if the removal of the child from the adoptive parents and subsequent termination or relinquishment of the rights of the adoptive parents.

A child's eligibility under this category depends on whether the child has received IV-E in a previous adoption. The original reason for the child's eligibility for IV-E is not relevant in any way, and need not continue for the child to qualify. Likewise, the situation in which the child was removed from the previous adoptive home also does not affect the child's eligibility.

If the child has never been previously adopted, or that adoption was not federally funded, the child may still qualify for IV-E adoption under one of the other four categories of assistance.

Nicholas was removed from his mother at birth and quickly adopted by his then foster parents, the Smiths, who received subsidy maintenance for him after his adoption. FACS shows that this was a IV-E subsidy.

Three years after the adoption, DHS removes Nicholas from the Smiths after abuse was discovered in the home. Nicholas does not qualify for IV-E foster care when removed from the Smiths because he is not deprived in that home and the Smiths' income is too high. After he spends two years in foster care again, an aunt adopts Nicholas.

Nicholas could qualify for IV-E adoption for his second adoption under the "previous adoption assistance" category because FACS shows that his previous subsidy maintenance was federally funded.

Child of a Minor Parent

Legal reference: 42 USC 673 (a)(2)(A)(iii)

In some highly specific instances, a child who meets all of the general requirements can be eligible for IV-E adoption based on the child's status as the child of a minor parent in foster care. Note that this situation is extremely rare. Any case made eligible on this basis should be scrutinized carefully to ensure full compliance with the requirements.

To meet this category of assistance all of the following must be true:

- ◆ The child must meet all of the general requirements; and
- ◆ The child must live with the child's minor parent in foster care at the time the adoption proceedings are initiated; and
- ◆ The minor parent must be eligible for and receiving IV-E maintenance payments at the time the adoption proceedings are initiated; and
- ◆ The maintenance costs of the minor parent must include costs for the child, i.e., a joint payment. (If the child received an individual maintenance payment at the time of the adoption petition, the child does not qualify for IV-E adoption.)

A child of a minor parent who was not living with that minor parent at the time the adoption was initiated could not be eligible under this category. Since in most cases the adoption would not be moving forward if the child were still with the child's parent, this circumstance will be highly unusual.

Note that if the child of a minor parent does not meet the requirements of this category as outlined above, the child may still be eligible for IV-E adoption assistance by meeting one of the other categories of assistance.

Jacquelyn gives birth to her son, Cesar, when she was 14 years old. Jacquelyn has already been in a foster home but moves to a group home for teen mothers when Cesar is born. Six months after their placement together, Cesar is placed out of his mother's care due to her inability to care for him appropriately. Cesar and his mother remain in separate foster homes from the time Cesar is removed. His foster parent adopts him two years later.

Cesar can **not** be eligible for adoption assistance under the "child of a minor parent" category because, although his mother is a minor, he is not living with her at the time the adoption is initiated. Another viable category must be identified for the Cesar to be eligible for IV-E adoption assistance.

IV-E ADOPTION PROCEDURES

The determination of a child's IV-E status for adoption is a joint process involving activities by IM and adoption subsidy staff. The determination of IV-E for adoption is completed one time, after the adoption petition has been filed. Once the child's status is established, it is not necessary to review the child's IV-E adoption status, as is necessary for IV-E out-of-home care.

When the adoption petition has been filed, the child's IV-E status must be determined based upon the certain factors relating to the child, and certain procedural requirements that DHS or the private adoption agency must following in finalizing the adoption of the child.

To make this determination, the IV-E IM worker relies upon information provided by the adoption subsidy worker, as outlined in the table below. In the case of private agency adoptions, the adoption subsidy worker acts as a coordinator, obtaining required information from the private agency or adoptive parents.

IV-E ADOPTION PROCEDURES

Iowa Department of Human Services

Title 13 Social Service Resources

Revised July 20, 2004

Chapter B Determining Title IV-E Eligibility

Staff Responsible	Tasks
Adoption subsidy worker	<ul style="list-style-type: none"> ◆ Completes form 470-4075, <i>Adoption IV-E Checklist</i>. Attach copies of necessary documents, including the adoption subsidy agreement, petition for adoption, TPR orders for the birth parents, and child’s background report, and send to the IV-E IM worker. ◆ Provides evidence that efforts were made to place the child without a subsidy, or that an exception was appropriate and in the best interests of the child. ◆ Provides supporting (medical) documentation of the child’s special needs if the child’s special needs status is related to a medical condition. ◆ Provides other necessary information as requested by the IV-E IM worker.
IV-E IM worker	<ul style="list-style-type: none"> ◆ Reviews materials received from adoption subsidy worker for completeness and requests any information needed to complete determinations. Additional requests are directed to the adoption subsidy worker. ◆ Reviews the subsidy agreement for compliance with IV-E requirements. ◆ Establishes that child meets the three IV-E special needs criteria, as discussed in Special Needs. ◆ Reviews other criteria discussed in GENERAL ADOPTION ELIGIBILITY REQUIREMENTS and MAINTENANCE SUBSIDY REQUIREMENTS. ◆ Documents child’s eligibility on form 470-3918, <i>IV-E Changes</i>. ◆ Enters the child’s IV-E status on ADOD screen in FACS to ensure correct IV-E claiming. ◆ Refers the case to the HIPP unit. ◆ Notifies the adoption subsidy worker of child’s IV-E adoption status.

If a child has been previously determined IV-E-eligible for out-of-home care, the out-of-home care information in the eligibility file will provide the other documentation needed to complete the IV-E adoption determination.

If the child was not previously determined for IV-E out-of-home care, take the following steps:

- ◆ First try to qualify the child based upon a category of assistance other than the “AFDC-eligible” category: SSI-eligible, previous adoption assistance, or child of a minor parent.
- ◆ Only when the child does not qualify under one of the other categories, consider whether eligibility under the AFDC eligible category is possible.

You will have to obtain additional information through the adoption subsidy worker to verify that the child meets all of the criteria discussed under **AFDC Eligibility**, including information regarding the legal authority for the child’s original removal and placement into out-of-home care, and household composition and income information from the child’s original removal home.

If the child has been living with a relative under DHS supervision who is now intending to adopt the child, the removal and household information from the child’s initial removal and subsequent placement with the relative will be necessary.

Eligibility File

As with IV-E out-of-home care determinations, information supporting the IV-E adoption decision must be maintained in the child’s eligibility file. Form 470-3918, *IV-E Changes*, is the certification form for IV-E adoption status. The file should also include other documents that support each of the requirements discussed under **GENERAL ADOPTION ELIGIBILITY REQUIREMENTS** and **MAINTENANCE SUBSIDY REQUIREMENTS**.

At minimum, the eligibility file should contain the following in support of the IV-E adoption determination:

- ◆ Form 470-4075, *Adoption IV-E Checklist*.
- ◆ Form 470-3918, *IV-E Changes*.
- ◆ Form 470-2941, *Foster Care and Subsidized Adoption Medicaid Review*.
- ◆ Proof that the general requirements are met, including:
 - Adoption subsidy agreement.
 - Termination of parental rights for both birth parents.
 - Child background report.
 - Medical documentation if child's "difficult to place" reason is medical in nature.
 - Evidence of efforts to place without subsidy.
- ◆ If child qualifies under the "AFDC-eligible" category, proof that the child meets each of the requirements discussed under **AFDC Eligibility**. This information can be copied from the IV-E out-of-home care eligibility file if the child was previously determined for IV-E out-of-home care. Note that a screen print showing IV-E status is not sufficient to meet this requirement.
- ◆ If child qualifies under the "SSI-eligible" category, a print of the SDX screen or letter from the Social Security Administration showing the child was eligible for SSI as of the date of the adoption petition.
- ◆ If child qualifies under the "previous adoption assistance" category, ADOD FACS screen from previous adoption showing IV-E status.
- ◆ If child qualifies under the "child of a minor parent" category, proof that:
 - The child resided with the minor parent at the time of the adoption petition.
 - The child's minor parent was claimed to IV-E at the time of the adoption petition.
 - The out-of-home care payment for the minor parent covered the parent and child.

Effective Date of Eligibility

Legal reference: 42 USC 673 (a)(5)

If a child meets the IV-E adoption requirements, the child's adoption subsidy maintenance and nonrecurring expenses can be claimed to IV-E effective the date the child was both placed in the adoptive home and a valid subsidy agreement was signed. This includes periods in which the child was placed in the home as a pre-subsidy placement.

If the child was placed in the adoptive home before the subsidy agreement was signed, that period may be claimed only if the child was IV-E-eligible as an out-of-home care case, and the placement was licensed as a foster home. If this is the case, the costs during that time may be claimed as IV-E out-of-home care costs.

Since children who are IV-E-eligible in out-of-home care will generally be IV-E-eligible in adoption, when the child is placed in a pre-subsidy home, the child's IV-E status from IVED screen in FACS will be repeated in the ADOD screen.

If the child was IV-E-eligible in out-of-home care, the child's pre-subsidy payments will be claimed to IV-E adoption. If the child was not IV-E-eligible in out-of-home care, FACS will not automatically claim the child's pre-subsidy to IV-E adoption.

When the child's IV-E adoption status is established at the time of the petition, prior pre-subsidy periods may require correction if the child's IV-E adoption status differs from the child's IV-E out-of-home care status. A retroactive claim will be necessary when:

- ◆ The child was IV-E-eligible in out-of-home care, but fails to meet one of the IV-E adoption general requirements. Any previously claimed pre-subsidy payments must be corrected unless the pre-subsidy home was dually licensed as a foster home.
- ◆ The child was not IV-E-eligible in out-of-home care, but meets the IV-E adoption requirements. The child may be claimed effective the date the child was both placed in the (pre-subsidy) adoptive home and a subsidy agreement was signed; a retroactive claim will be necessary to pick up the missed period.

The process for submitting a negative or positive retroactive adjustment is the same as that used for children in out-of-home care. See **Retroactive Claims and Adjustments**.

Once the child's adoption is finalized, a new FACS case will be created under the child's adoptive identity. The child's IV-E status on the ADOD screen will carry over to the child's new FACS case; no action by the IV-E IM worker is necessary.

Extension of Assistance

Legal reference: 42 USC 673 (a)(4)

Once a child is determined eligible, claiming of the child's subsidy maintenance to IV-E continues until the child reaches age 18 unless one of the situations discussed in **Termination of Assistance** occurs.

Unlike IV-E foster care, annual reviews are not required for continued IV-E adoption eligibility. However, if the child reaches 18, a reconsideration of the child's situation is required to determine if the child's eligibility may be extended to age 21. A child may continue to receive IV-E adoption until age 21 provided the child has a mental or physical disability that warrants the continuation of assistance until age 21.

The adoption subsidy worker will request verification from the adoptive family when the child's eighteenth birthday is approaching. If the adoptive family provides information showing continued assistance is warranted, the adoption subsidy worker will allow the child's subsidy to continue until age 21.

This verification must be in the IV-E IM file in order to continue IV-E claiming after age 18. Acceptable verification is either a medical professional's determination of an ongoing medical condition or disability current within one year of the child's eighteenth birthday; or documentation of a director's exception granted based upon the severity of the child's medical condition or disability. When such documentation is on file, the IV-E claim will continue. No other action is necessary on the part of the IV-E IM worker.

Child Enters Out-of-Home Placement

When a child enters out-of-home placement from an adoptive home, treat this removal like any other removal and placement into out-of-home care. Determine the child's eligibility for IV-E out-of-home care based upon the authority for removal and the financial circumstances in the child's removal home (the adoptive home). The child's IV-E status in adoption and in out-of-home placement are distinct and separate.

When the child enters out-of-home placement, the adoption subsidy worker may renegotiate the amount of the monthly subsidy maintenance upon discussion with the adoptive family. Whether the subsidy is maintained, reduced, or discontinued will depend on the individual circumstances of the adoptive family, the child's removal, and the future plan for the child.

If a subsidy continues to be paid, this case may continue to be claimed to IV-E. The adoptive family's continued receipt of IV-E adoption subsidy does not prevent or limit the child's ability to receive IV-E funding for the out-of-home care maintenance payment.

If the child later returns to the care of the adoptive family, the child's IV-E claiming may also continue without regard to the length of time the child has been in out-of-home placement.

Termination of Assistance

Legal reference: 42 USC 673(a)(4)

The child's subsidy (and claiming to IV-E) may be terminated completely only in one of the following situations:

- ◆ The child reaches the age of 18, and continued assistance until age 21 cannot be justified based on a mental or physical disability.
- ◆ DHS determines that the adoptive parent is no longer legally responsible for the child. (For example, the adoptive parents' rights are terminated, the child becomes an emancipated minor, the child marries, or the child enlists in the military.)
- ◆ DHS determines that the adoptive parent is no longer financially supporting the child; for example, by providing room and board, or by paying for family therapy, tuition, clothing, maintenance of special equipment in the home, or special services for the child.

If the adoption subsidy becomes aware that such a situation exists, the child's adoption subsidy will be terminated. No action is necessary on the part of the IV-E IM worker.



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DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

February 27, 2001

GENERAL LETTER NO. 13-B-10

ISSUED BY: Bureau of Permanency Services
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 13, Chapter B, ***DETERMINING ELIGIBILITY, FOR TITLE IV-E***, Title page, new; Contents (pages 1 through 8), new; and pages 1 through 182, new.

Summary

This new manual chapter provides clarification and an update for policies and procedure used by both service workers and income maintenance workers in determining eligibility of foster care, pre-adoptive placements, and subsidized adoptive placements for Title IV-E funding. The material in this chapter:

- ◆ Replaces sections in chapters 8-H and 13-J(1) regarding IV-E eligibility;
- ◆ Incorporates the final federal rule changes for the Adoption and Safe Families Act issued by the Department of Health and Human Services effective March 27, 2000; and
- ◆ Clarifies the program eligibility requirements to be followed in Iowa to permit federal participation in Title IV-E funding in keeping with the AFDC program requirements of July 16, 1996.

Service workers and income maintenance workers play an important role together in accurately determining IV-E eligibility for Iowa's children. This manual chapter has been developed to address policy and procedure issues for both service and income maintenance staff, in recognition of the important and interdependent role each plays in accurately determining eligibility.

Accurately determining IV-E eligibility is important to Iowa because it:

- ◆ Establishes federal funding for a child's Medicaid;
- ◆ Permits a federal match of foster care maintenance costs; and
- ◆ Is used by the federal government to determine training and administrative funding for child welfare staff.

Presented below is a summary of the policy and procedure changes and clarification regarding eligibility, as well as implementation instructions for this new manual chapter. These lists are summary statements of the changes to eligibility factors only. Complete information on all eligibility factors for IV-E is explained in the attached manual chapter.

Changes and Clarifications in IV-E Eligibility Policy for Service:

- ◆ Children who are removed from their parent’s home (or the home of a specified relative) pursuant to a court order dated after March 27, 2000 , must have language in the very first court order that indicates that:
 - Remaining in the home would be “contrary to the welfare of the child,” or
 - Placement is in the “best interest of the child.”
- ◆ Children who are removed from their parent’s home (or the home of a specified relative) pursuant to a court order dated after March 27, 2000, must have language in a court order within 60 days which establishes that reasonable efforts were made to prevent removal from the home.
- ◆ Court orders dated after March 27, 2000, that do not contain required judicial determinations may not be amended by *nunc pro tunc* orders.
- ◆ Children in foster care must now have a judicial determination made at least once in every 12-month period concerning “reasonable efforts to achieve the permanency goal.”
- ◆ Children in a provisionally licensed foster care facility can no longer draw IV-E funding for maintenance. (They may be eligible for IV-E administrative and training only, if otherwise eligible.)

Changes and Clarifications in IV-E Eligibility Policy for IM:

- ◆ AFDC policies in effect July 16, 1996, will be used to determine financial eligibility for IV-E, with the following exceptions:
 - The resource limit is \$10,000 (not \$1,000) for reviews after December 1999. Use \$1,000 limit for IV-E reviews for December 1999 and all earlier months.
 - Apply two income tests, not three. Apply the 185% eligibility test and the standard of need test (not the payment standard test).
- ◆ For initial IV-E eligibility, eligibility will be based on the household’s situation in the month the court order was initiated removing the child from the home.
- ◆ Siblings placed in the same setting will be considered separately for IV-E eligibility determinations.
- ◆ Deprivation will be based on absence, death, or incapacity of one or both parents.
- ◆ Deprivation must continue to exist in the removal household for IV-E eligibility to continue. Once deprivation is determined to exist, assume that it continues at each review unless there is information to the contrary.

- ◆ The IM worker can use the IWD Wage A report as confirmation and verification of earned income and the DOT VRHQ screen as documentation of the household's vehicles for AFDC eligibility purposes.
- ◆ The IM worker will record IV-E eligibility in the IM file on form 470-3837, *Foster Care IV-E IM Worksheet*.

Implementation Instructions

The implementation instructions address:

- ◆ Implementing the new policy and procedure for determining eligibility for all new children in foster care that have not yet had a IV-E eligibility determination;
- ◆ Requirements for ongoing foster care medical reviews; and
- ◆ Preparing for and conducting a DHS IV-E audit in preparation for a federal review scheduled for September 2001.

Specific responsibilities and actions have been identified for both service and income maintenance workers to follow during the audit process:

- ◆ When eligibility criteria are found to be met or not met; and
- ◆ In cases involving a review of court orders where criteria could be met with further worker action;
- ◆ When further clarification of policy or procedures is required.

Because the FACS system is not yet programmed to support the new policy requirements, it has been necessary to develop manual systems for communication between IM and Service. IM and Service staff must manually prepare form 470-3839, *Foster Care/Adoption Exchange Addendum*, at various points in the eligibility process. This form supplements form 470-2708, the exchange of information that is generated from FACS and sent to the IM staff.

The *Addendum* will be used only until programming changes can be made to FACS. When using e-mail to transmit the *Addendum*, remember to type "Confidential" in the subject line of the note and to follow e-mail confidentiality procedures in the Department of Human Services *Employee Handbook*.

New Placements

Upon receipt of this manual material, all children in new foster care placements that have not yet had a IV-E determination completed based on the new policies and procedures, are subject to the new IV-E criteria outlined in this chapter.

Form 470-3334, *JCS Referral for Payment*, has been revised to properly gather information from Juvenile Court staff about cases that they are managing. In these "payment only" cases, the DHS service worker will use information obtained from this form to complete the *Foster Care/Adoption Exchange Addendum*.

Ongoing Foster Care Medical Reviews

As foster care medical reviews come due in the next few months, it is recommended that IM staff look to see if the child is currently receiving IV-E and is on the list for the audit. If so, you will know that the service staff will soon be completing a *Title IV-E Foster Care Eligibility Review Checklist*. There will need to be communication between service and IM staff to coordinate these reviews during the pre-audit reading phase.

Following the completion of the pre-audit case reading activities described below, foster care medical reviews will be conducted on all cases in the manner described in the attached manual. IM staff will initiate sending form 470-2914, *Foster Care and Subsidized Adoption Medicaid Review*, to the service reviewer, along with a *Foster Care/Adoption Exchange Addendum*.

IV-E Pre-Audit Overview

In September 2001, a federal review of Iowa's IV-E foster care program will be conducted. Iowa IV-E foster care cases and "presubsidy" cases where the adoption is not yet finalized will be included in the review. Any such case which was in care for any time in the review period (between October 1, 2000, and March 31, 2001) may be selected for review.

In preparation for the audit, the Department and Juvenile Court Services are conducting a pre-audit review of all cases potentially subject to the federal audit. A case list has been created which lists all IV-E cases active within the audit period. This list (with monthly updates for new cases) can be found at: [hoovr3s2/acfs.772/asfafr/4E/casereview sample.xls](http://hoovr3s2/acfs.772/asfafr/4E/casereview%20sample.xls).

It is expected that you will review and correct 100% of the cases on the list according to the new IM and service policy. Each region is responsible for:

- ◆ Monitoring and tracking completion of the case reviews.
- ◆ Reporting weekly to ACFS until April 17, 2001, on:
 - Progress towards completion of the reviews.
 - Counts of the ineligible and total cases reviewed.

The pre-audit reviews must be completed no later than April 20, 2000.

New form 470-3838, *Title IV-E Foster Care Eligibility Review Checklist*, must be completed for each child on the case list. The form reviews each case from the most recent removal for the current period of continuous out-of-home placement and through the review date. The form and directions for its use may be found at [hoovr3s2/acfs.772/asfafr/4E/IVE Review Checklist.xls](http://hoovr3s2/acfs.772/asfafr/4E/IVE%20Review%20Checklist.xls). File a completed *Checklist* in the service case record for each child reviewed.

For any cases or periods of ineligibility, the service reviewer must complete form 470-3840, *Ineligibility Chart*, and immediately transmit it and a copy of the completed *Title IV-E Foster Care Eligibility Review Checklist* to the Division of Adult, Children, and Families. The *Ineligibility Chart* reports periods of time that the child was ineligible for IV-E maintenance or was otherwise eligible but was in an ineligible setting (eligible for IV-E training and administration).

When completing the form, service staff use information from the *Title IV-E Foster Care Eligibility Review Checklist* and review the attached *Foster Care IV-E IM Worksheets* completed by the IM staff to find any periods of ineligibility for IV-E training and administration. This information can be found on the final section of the worksheet. If there are any questions about effective dates, seek further clarification from the IM audit reviewer.

Any *Ineligibility Chart* information not provided by April 17 but provided by April 20 will be accepted, with the additional requirement that the regional service specialist also have the information and be available and prepared to address any questions about the information. This extra step is necessary to ensure prompt response for any last-minute questions that need to be resolved for inclusion of corrections.

Any information not provided to Jeff Regula by April 20 will not be corrected for the federal AFCARS submission used for the audit.

If a child's placement responsibility is with Juvenile Court Services, it will be the responsibility of the Juvenile Court Services to complete the pre-audit case reading. JCS staff are expected to complete the *Title IV-E Foster Care Eligibility Review Checklist* and conduct the same process described below, except that they should use letters (rather than e-mails) to correspond with IM staff about changes that need to be made in the child's eligibility.

Review Procedures

The following procedures have been developed for the review of potential audit cases. The review process will begin with the service reviewer looking at service portions of form 470-3838, *Title IV-E Foster Care Eligibility Review Checklist*, according to the instructions. The reviewer will complete the demographic information at the beginning of the *Title IV-E Foster Care Eligibility Review* form and sections A - E and G - I.

When IV-E Service Criteria Are Not Met

Service Responsibilities

If the case **does not** meet Service IV-E criteria and cannot be corrected with a *nunc pro tunc* order, send an e-mail to the IM worker with a copy to the IM supervisor telling the IM worker to remove the child from IV-E eligibility. The memo should also identify the reason the child did not meet service IV-E criteria.

If the case fails only to meet licensing requirements of the placement setting (Section H), check the applicable box under "Results of Service Review" at the end of form 470-3838. Forward the completed form to the IM worker to determine eligibility for IV-E administration and training.

IM Responsibilities

The IM worker will print the e-mail and file it in the IM case record to serve as documentation as to why a child not eligible based on the service review was removed from IV-E.

The IM worker must do an automatic redetermination for other coverage groups. If the case fails only to meet licensing requirements of the placement setting (Section H), follow the applicable instructions under **IV-E Service Criteria Are Met**, to determine eligibility for IV-E administration and training.

The ABC coding to remove a child from IV-E is as follows:

- ◆ TD01: Change the AID or MED AID from 30-8 to the applicable aid type for the redetermined Medicaid coverage group, using the first of the next system month as the date in the AID CHG DT or MED CHG DT field.
- ◆ TD04: Change ELIGIBILITY FOR IV-E ADMINISTRATION FUNDING coding in the ongoing field to “N” if there is no eligibility for IV-E administration and training.
- ◆ TD03: Use “H” entry reason and change the FUND code from “2” to the fund code appropriate for the redetermined Medicaid coverage group.

IM will respond to the service reviewer by e-mail upon completion of removing the child from IV-E, notifying the service reviewer:

- ◆ That the child has been removed from IV-E eligibility or coded for administration only,
- ◆ What the new Medicaid coverage group is, and
- ◆ The effective date of the new coverage.

The service reviewer needs this information to track completion of the audit review.

Service Responsibilities

Service reviewers will then complete form 470-3840, *Ineligibility Chart*, for each child. Place the original *Ineligibility Chart* and *Title IV-E Foster Care Eligibility Review Checklist* in the service file. Keep one copy of each for reference and possible tracking within your region. Forward a copy of the *Ineligibility Chart* and the *Checklist* to:

Iowa Department of Human Services
Attn: Jeff Regula
Division of Adult Children and Family Services, 5th Floor
1305 E. Walnut
Des Moines IA 50319-0114

This information will be reviewed at the central office level and will be used to make any retroactive adjustments to claims for maintenance and administrative expenditures.

IV-E Service Criteria Are Not Met but Could Be Met With a Nunc Pro Tunc Order

When service reviewers are completing form 470-3838, *Title IV-E Foster Care Eligibility Review Checklist*, they will see that some eligibility criteria that are not currently met, but can be corrected with a *nunc pro tunc* court order.

Service Responsibilities

If a *nunc pro tunc* order could correct IV-E service eligibility criteria, check the applicable box under “Results of Service Review” at the end of form 470-3838. Complete sections A-E and G-I, and send the form to the IM worker to make an AFDC eligibility determination.

It is recommended that staff not seek *nunc pro tunc* orders until it is established that the child also meets the IM IV-E eligibility criteria. By doing this, we will not take the time of the court on a case that is ultimately not going to be eligible for IV-E. Each region must address this issue and coordinate with the courts and income maintenance staff as they prepare for the audit.

IM Responsibilities

The IM worker will then follow the appropriate instructions under **IV-E Service Criteria Are Met, IM Responsibilities**. Exception: As there are additional programming changes needed with the FACS-ABC interface, IM workers may be asked to complete AFDC determinations on cases for the pre-audit review that are not currently coded as IV-E-eligible.

For example, a case may be coded as CMAP on ABC, but the FACS system is reading the case as IV-E so the case is chosen as part of the review sample. If you determine that IM IV-E criteria are met, do not change the case coding to IV-E until you are notified that a *nunc pro tunc* order has been obtained.

Service Responsibilities

- ◆ If the *Title IV-E Foster Care Eligibility Review Checklist* is returned indicating IM IV-E criteria are met, then the service reviewer must seek a *nunc pro tunc* order.

If it is obtained, place it in the service record, and complete the *Title IV-E Foster Care Eligibility Review Checklist* to indicate compliance with the judicial requirement corrected by the *nunc pro tunc* order. Inform the IM worker via E-mail that the *nunc pro tunc* order has been obtained so IM can make system coding entries to put the case on IV-E if it is not already coded as such.

If the *nunc pro tunc* order is not obtained, notify the IM worker by e-mail that the child is not eligible for IV-E, stating that IV-E service criteria are not met as a *nunc pro tunc* order could not be obtained. Instruct the IM to remove the child from IV-E. Proceed to notify ACFS as though IM had determined the child ineligible (see below).

- ◆ If the *Title IV-E Foster Care Eligibility Review Checklist* is returned indicating IM IV-E criteria **are not** met, then the service reviewer must complete form 470-3840, *Ineligibility Chart*, for each child. Place the original *Ineligibility Chart* and *Title IV-E Foster Care Eligibility Review Checklist* in the service file. Keep one copy of each for reference and possible tracking within your region. Forward a copy of the *Ineligibility Chart* and the *Checklist* to:

Iowa Department of Human Services
Attn: Jeff Regula
Division of Adult Children and Family Services, 5th Floor
1305 E. Walnut
Des Moines IA 50319-0114

This information will be reviewed at the central office level and will be used to make any retroactive adjustments to claims for maintenance and administrative expenditures.

IM Responsibilities

If a *nunc pro tunc* order is not obtained, the IM worker will print the e-mail and file in the IM case record to serve as documentation as to why a child was removed from IV-E. The IM worker must do an automatic redetermination for other coverage groups. The ABC coding to remove a child from IV-E is as follows:

- ◆ TD01: Change the AID or MED AID from 30-8 to the applicable aid type for the redetermined Medicaid coverage group, using the first of the next system month as the date in the AID CHG DT or MED CHG DT field.
- ◆ TD04: Change ELIGIBILITY FOR IV-E ADMINISTRATION FUNDING coding in the ongoing field to “N” if there is no eligibility for IV-E administration and training.
- ◆ TD03: Use “H” entry reason and change the FUND code from “2” to the fund code appropriate for the redetermined Medicaid coverage group.

IM will respond to the service reviewer by e-mail upon completion of removing the child from IV-E, notifying the service reviewer:

- ◆ That the child has been removed from IV-E eligibility,
- ◆ What the new Medicaid coverage group is, and
- ◆ The effective date of the new coverage.

The service reviewer needs this information to track the completion of the audit review.

IV-E Service Criteria Are Met

Service Responsibilities

If the service reviewer determines that the case **does** meet service IV-E criteria, send a copy form 470-3838, *Title IV-E Foster Care Eligibility Review Checklist*, with sections A-E and G-I completed to the IM worker to make an AFDC eligibility determination.

IM Responsibilities

IM will review the case record to determine if the child remains eligible for IV-E based on deprivation and financial eligibility as outlined in the manual. Complete one form 470-3837, *Foster Care IV-E IM Worksheet*, for the initial placement and for each subsequent six-month review period through the pre-audit review date to document the conclusion of the AFDC eligibility determination.

If the income or vehicle information is not available to make the AFDC determination, review information screens (such as WAGE A, VEHICLE, JIB), along with information obtained from the service reviewer to make a IV-E determination whenever possible. If needed information cannot be obtained through review of these screens, send a request for the needed information to the family, with a copy to the service reviewer.

The IM worker completes Section F of form 470-3838, *Title IV-E Foster Care Eligibility Review Checklist*, keeps a copy for the Medicaid file, and sends a copy to the service reviewer. Keep the *Foster Care IV-E IM Worksheets* used to make the IM IV-E determination in the IM case record. Send copies to the service reviewer.

- ◆ If the child **remains eligible** for IV-E funding, also review the ABC system coding and make any necessary corrections to ensure that the case is correctly set up to draw IV-E maintenance and IV-E administration and training. The following IABC coding reflects IV-E eligibility:
 - TD01: Case AID or MED AID of 30-8.
 - TD04: ELIGIBILITY FOR IV-E ADMINISTRATION FUNDING coding in the ONGOING field needs to be “Y”.
 - TD03: FUND code of “2”.
- ◆ If the IM IV-E criteria are **not** met, complete an automatic redetermination to another coverage group and remove the child from IV-E eligibility by making the following ABC entries:
 - TD01: Change case AID or MED AID from 30-8 to the applicable aid type for the redetermined Medicaid coverage group. Use the first of the next system month as the date in the AID CHG DT field.
 - TD04: Change ELIGIBILITY FOR IV-E ADMINISTRATION FUNDING coding in the ONGOING field to “N” if there is no eligibility for IV-E administration and training.
 - TD03: Use “H” entry reason and change the FUND code from “2” to the applicable fund code for the redetermined Medicaid coverage group.

Service Responsibilities

If the IM IV-E criteria **are** met, the service reviewer files the *Title IV-E Foster Care Eligibility Review Checklist* and *Foster Care IV-E IM Worksheets* in the service record, under the heading of “Eligibility”.

If the IM IV-E criteria are **not** met for any period of time , upon receipt of the *Title IV-E Foster Care Eligibility Review Checklist*, the service reviewer will need to complete the *Ineligibility Chart*. Place a copy of this and the *Checklist* in the service record. Keep one copy of each for reference and possible tracking within your region. Forward a copy of the *Ineligibility Chart* and the *Review Checklist* to:

Iowa Department of Human Services
Attn: Jeff Regula
Division of Adult Children and Family Services, 5th Floor
1305 E. Walnut
Des Moines IA 50319-0114

This information will be reviewed at the central office level and will be used to make any retroactive adjustments to claims for maintenance expenditures.

Effective Date

Upon receipt.

Material Superseded

None

Additional Information

Refer questions about this general letter to your regional benefit payment or service administrator.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

May 28, 2002

GENERAL LETTER NO. 13-B-11

ISSUED BY: Services Policy and Practice Team
Division of Behavioral, Developmental, and Protective Services

SUBJECT: Employees' Manual, Title 13, Chapter B, ***DETERMINING ELIGIBILITY, FOR TITLE IV-E***, Contents (pages 1 through 4), revised; pages 3, 4, 5, 6, 7 through 16, 17 through 28, 29 through 33, 36, 38, 40, 89, 90, 151, and 171 revised; and pages 4a through 4e, 6a through 6h, 16a through 16d, and 28a through 28g, new.

Summary

Employees' Manual 13-B is being revised to:

- ◆ **Introduce new procedures for completing IV-E eligibility determinations for children in foster care.** The following workers act together as a team in the Department's efforts to determine eligibility and claiming for IV-E funding accurately:
 - IV-E service workers
 - IV-E IM workers
 - Social work case manager (SWCM)

In summary, the new process works as follows. When a SWCM removes a child from the home, the SWCM:

- Provides the IV-E service worker with a copy of the court order or voluntary placement agreement.
- Completes form 470-3839, *IV-E Initial Placement Information*, to provide the information necessary to open the foster care service and later make a IV-E determination.
- Provides the family with a Medicaid application (if the family is not currently receiving Medicaid).
- Assists in the gathering of financial and resource information on the removal household, and provides this to the IV-E IM worker.

The IV-E service worker:

- Reviews the information provided by the SWCM.
- Makes a determination regarding whether the child meets IV-E service eligibility.
- Makes entries regarding the placement into FACS.
- Forwards the IV-E service determination to the IV-E IM worker.

The IV-E IM worker:

- Reviews the application, household situation, income, and resources.
- Makes a determination regarding eligibility for IV-E funding.

After the initial determination, the team communicates with each other any changes affecting eligibility, in order to maintain accuracy for ongoing IV-E eligibility.

- ◆ **Clarify when IV-E eligibility begins for a child placed in foster care.** Eligibility and claiming for IV-E foster care does not begin until all IV-E eligibility requirements have been met. This includes, but is not limited to:
 - A determination that reasonable efforts have been made to prevent removal, when the removal is court-ordered.
 - Placement in a IV-E eligible facility or foster home.

Several references and examples have been added to the manual to illustrate this.

- ◆ **Clarify polices regarding language needed in court orders that affects IV-E eligibility.** When considering the content of court orders to determine if they meet the requirements for IV-E eligibility, there is no requirement for exact language. The language in the court order must convey the intent of the required determination. Follow this guideline for all IV-E-related judicial determinations, including:
 - “Contrary to the welfare” and “best interest” determinations.
 - “Reasonable efforts to prevent removal” determinations.
 - “Continued placement in the best interest of the child” determinations.
 - “Reasonable efforts to achieve permanency” determinations.

- ◆ **Clarify how to identify the household the child is removed from.** For all children who have been removed from their home after March 27, 2000, the following guidelines should be applied to determine from which household the child was removed.

The removal home is the one that the court has identified as the subject of the “contrary to the welfare” determination. For children placed under voluntary agreement, the removal home is the home of the person who has signed the child into voluntary foster care.

The Medicaid application should be sent to the removal home and information gathered about that home for the month in which the removal occurred. To be found eligible, the child must have lived with that person within six months of the date of removal. The person must also meet the requirements for being a specified relative.

Follow old policies for children removed from the home before March 27, 2000.

- ◆ **Clarify how to identify the month of removal.** The “month of removal” is the month the child is physically removed from the home (parent, legal guardian, relative or suitable person) and custody is transferred to DHS, JCS, or a non-IV-E agency (e.g. police department, physician, State Training School, child placing agency). This begins a new episode of care.

For voluntary placement agreements, the effective date of the voluntary placement agreement is used to establish the month of removal.

- ◆ **Clarify policies regarding the timing of judicial determinations that reasonable efforts have been made to prevent removal.** When the “reasonable efforts” determination is not made in the same court ruling as the “contrary to the welfare” determination, eligibility for IV-E does not begin until the reasonable efforts determination is obtained in the later court hearing.

IV-E policy requires that judicial determinations addressing reasonable efforts to prevent removal must occur within 60 days of removal. Although Iowa law requires a judicial determination within 10 days, failure to obtain the determination within 10 days does not make the child ineligible for IV-E funding.

- ◆ **Introduce a change in how to treat reasonable efforts determinations for children who entered care before March 27, 2000.** For children removed from the home before March 27, 2000, a determination that either reasonable efforts were made to prevent removal or that reasonable efforts were made to reunify would satisfy IV-E eligibility requirements. There is no time limit which must be met for these case to be IV-E eligible. However, IV-E eligibility can not begin until the determination is obtained.

- ◆ **Clarify policies regarding which court hearings or orders can have a judicial determination that reasonable efforts have been made to achieve permanency (RE2).** An RE2 determination can be made at any hearing or through a court order. As long as there is a judicial determination indicating that the state has made “reasonable efforts” in accordance with the permanency plan goals specific to the child, this IV-E eligibility requirement can be considered met. A permanency hearing is not the only hearing where an RE2 determination can be made.

- ◆ **Clarify policies regarding how to obtain a judicial determination that reasonable efforts have been made to achieve permanency when the goal is another planned permanent living arrangement.** If goal is “alternative planned permanent living arrangement” (APPLA) and child is in a permanent placement where the Department maintains custody, then court would find that the state is making “reasonable efforts” to maintain that permanent placement. An example has been added to the manual to help clarify this situation.

- ◆ **Clarify policies regarding what is needed for a child to meet deprivation requirements for IV-E eligibility.** Deprivation policies are revised to reflect the new policies on identifying the removal household.

The child must have lived with a specified relative who is the subject of the “contrary to welfare” or “best interest” determination in the month of removal or within six months before the month of removal.

- ◆ **Clarify policies on how to treat cases when a child is determined not to be IV-E eligible.** References are added on where to look for policies for completing Medicaid determinations when the child does not meet IV-E eligibility criteria. When a child does not meet all IV-E eligibility requirements, the child's eligibility for Medicaid is determined according to 8-H, *FOSTER CARE AND SUBSIDIZED ADOPTION*.
- ◆ **Clarify policies regarding citizenship and IV-E eligibility.** To qualify for IV-E eligibility, a child must be a U.S. citizen or meet the definition of a "qualified alien" as identified by the Personal Responsibility and Work Opportunities Reconciliation Act of 1996. The manual is updated to reflect the applicable criteria.
- ◆ **Clarify policies identifying when a Medicaid application is needed to complete a IV-E eligibility determination.** A Medicaid application is required for new foster care entries only when the child is not currently receiving Medicaid.
- ◆ **Clarify policies outlining when a review of IV-E eligibility is to be conducted.** A review of IV-E eligibility is required any time there is a change in circumstances that could affect IV-E eligibility. A review must occur no less frequently than once every 12 months. Information is added to identify more clearly changes in circumstances that require a review.
- ◆ **Change policy for periodic reviews of IV-E eligibility.** Periodic reviews are now required once every 12 months when there has been no change in circumstances.
- ◆ **Introduce new policies for the claiming of IV-E administration and training dollars.** Effective July 3, 2001, administration and training funding can no longer be claimed for children in ineligible placements. Except for children receiving SSI, the only time IV-E administration and training funds are claimed is when IV-E-eligible maintenance is paid.
- ◆ **Clarify the definition of a facility that is ineligible for IV-E.** Manual is clarified to show:
 - That a PMIC (psychiatric medical institution for children) is considered an ineligible placement for IV-E eligibility determinations.
 - How to determine the IV-E status of foster homes and facilities when a license has been renewed. Title IV-E requires that the facility be fully licensed for foster care to be considered an eligible placement. To be considered as continuously eligible for IV-E, the application for re-licensing must be obtained 30-90 days before expiration of license.
- ◆ **Clarify determinations of IV-E eligibility when a child is on a trial home visit.** Policy supports two "types" of trial home visit:
 - Short-term visits
 - Transitional or episode-ending visits

The updated manual provides instructions on how to determine IV-E eligibility for children who are on a trial home visit or who return to a foster care placement following a trial home visit. Instructions for court involvement and recommended duration for transitional trial home visits are included.

- ◆ **Clarify policies regarding the child of a minor parent in foster care.** Information is added in the section titled “Child of a Minor Parent in Foster Care” to provide guidance on when to consider the child of a minor parent as a child in foster care and how and when to do a determination of IV-E eligibility for the child.
- ◆ **Clarify policies regarding IV-E eligibility determinations for short-term placements.** If a child is to be placed out of the home for less than 10 days, a IV-E eligibility determination is not required, but may be done. If the child is not currently receiving Medicaid, a Medicaid application must still be completed for the child.
- ◆ **Clarifying policies regarding SSI and IV-E eligibility for children in or entering foster care.** Information on IV-E and SSI eligibility is added to the section titled “Claiming IV-E or SSI for Children in Foster Care.” References are added throughout the manual to help clarify the relationship between SSI and IV-E for children in foster care.
- ◆ **Clarify policies regarding Iowa foster children placed in another state.** Clarification was added regarding how to report IV-E eligibility when placing children who are eligible for SSI and IV-E in out-of-state placements. The child’s IV-E status should be reported to the receiving state.
- ◆ **Clarify when and how to do IV-E eligibility determinations for children in the day treatment program.** Day treatment is not considered “out of home care.” IV-E cannot be claimed for children who are in the day treatment program.

When the day treatment program is not affective and the child enters a long-term foster care placement, this is considered a new removal from home. There has to be a “contrary to welfare” or “best interest” determination, an RE1 determination, and DHS custody placing the child into the placement in order for IV-E to be claimed. The date of entry into the foster care placement is considered the month of removal.

Effective Date

March 13, 2002

Material Superseded

<u>Page</u>	<u>Date</u>
Contents (pages 1 through 4)	February 27, 2001
3-33, 36, 38, 40, 89, 90, 151, 171	February 27, 2001

Additional Information

Refer questions about this general letter to your supervisor or to the IM SPIRS and Service Help Desks.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

November 5, 2002

GENERAL LETTER NO. 13-B-12

ISSUED BY: Division of Behavioral, Developmental and Protective Services for Families, Adults and Children

SUBJECT: Employees' Manual, Title 13, Chapter B, *DETERMINING ELIGIBILITY, FOR TITLE IV-E*, pages 5, 6, 6a, 6b, 6d, 6e, 6f, 6h, 24, 25, 27, 28, 28a, 28b, and 28e, revised; and page 6i, new.

Summary

This chapter is revised to:

- ◆ Provide technical corrections for several items in the processes for completing IV-E eligibility determinations.
- ◆ Add procedural steps for doing IV-E determinations when children are placed in PMICs.
- ◆ Make a technical correction to the policy regarding the timing of determinations that the Department has made reasonable efforts to achieve permanency, to align with statements in Chapter 18-A.
- ◆ Change the process for completing IV-E eligibility determinations, due to programming changes in FACS.

Effective Date

Immediately.

Material Superseded

Remove the following pages from Employees' Manual, Title 13, Chapter B, and destroy them:

<u>Page</u>	<u>Date</u>
5, 6, 6a, 6b, 6d-6f, 6h, 24, 25, 27, 28, 28a, 28b, 28e	May 28, 2002

Additional Information

Refer questions about this general letter to your supervisor or the SPIRS IM and Service Help Desks.



December 2, 2003

GENERAL LETTER NO. 13-B-13

ISSUED BY: Division of Behavioral Developmental and Protective Services for Families, Adults and Children

SUBJECT: Employees' Manual, Title 13, Chapter B, ***DETERMINING ELIGIBILITY FOR TITLE IV-E***, page 124 revised.

Summary

The policy for determining IV-E eligibility for children who are receiving adoption subsidy payments is being revised.

When calculating initial AFDC eligibility for a household containing a subsidized adoption recipient:

- ◆ Do not include the subsidized adoption recipient in the household size.
- ◆ Do not count the subsidized adoption recipient's income or resources.

Exception: If there are no AFDC-eligible members in the removal household, consider the removal household as an eligible group of one, consisting of the subsidized adoption recipient only. This situation may occur when the removal household contains a subsidized adoption recipient and an SSI parent.

1. Marcus, Melanie, and Mike are removed from their mother's home, the removal household. Mike receives subsidized adoption.
 - ◆ Each child has a separate IV-E determination completed.
 - ◆ The household size for each child's IV-E determination is three (mother, Marcus and Melanie). Neither Mike nor his income and resources are included in the eligible group, as he is a subsidized adoption recipient.
2. Same as Example 1, except all three children receive subsidized adoption.
 - ◆ Each child has a separate IV-E determination completed.
 - ◆ The household size for each child's IV-E determination is one (mother). None of the children are included in the eligible group, as they are subsidized adoption recipients. None of the adoption subsidies are counted in determining IV-E eligibility.

3. Tim is a child in subsidized adoption who is removed from his mother's home. The mother is the subject of the "contrary to welfare" finding. She receives SSI. The IV-E eligible group is one (Tim), as his mother is an SSI recipient and not included, and there are no other AFDC-eligible members. Tim's adoption subsidy payment is not counted in determining his IV-E eligibility.

Effective Date

Apply these changes effective October 1 2003, for all children who are considered as in an out-of-home placement and for all children who enter an out-of-home placement on or after October 1, 2003.

Material Superseded

Remove from Employees' Manual, Title 13, Chapter B, page 124, dated February 27, 2001, and destroy it.

Additional Information

Refer questions about this general letter to your service area manager.



July 20, 2004

GENERAL LETTER NO. 13-B-14

ISSUED BY: IV-E Eligibility Unit, Field Operations Support Unit

SUBJECT: Employees' Manual, Title 13, Chapter B, DETERMINING TITLE IV-E ELIGIBILITY, Title page, revised; Contents (pages 1 through 4), revised; and pages 1 through 143, revised.

Summary

Chapter 13-B, DETERMINING TITLE IV-E ELIGIBILITY, has been revised and rewritten to:

- ◆ Incorporate policy changes that were issued in Manual Letter No. 13-B-1, dated September 23, 2003.
◆ Provide policy clarification and the logic behind the requirements for IV-E foster care, adoption pre-subsidy, and adoption assistance programs.

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title 13, Chapter B, and destroy them:

Table with 2 columns: Page and Date. Lists various pages and their corresponding dates from 2001 to 2003.

24, 25	November 5, 2002
26	May 28, 2002
27, 28, 28a, 28b	November 5, 2002
28c, 28d	May 28, 2002
28e	November 5, 2002
28f, 28g, 29-33	May 28, 2002
34, 35	February 27, 2001
36	May 28, 2002
37	February 27, 2001
38	May 28, 2002
39	February 27, 2001
40	May 28, 2002
41-88	February 27, 2001
89, 90	May 28, 2002
91-123	February 27, 2001
124	December 2, 2003
125-150	February 27, 2001
151	May 28, 2002
152-170	February 27, 2001
171	May 28, 2002
172-182	February 27, 2001

Additional Information

Refer questions about this general letter to the IV-E Eligibility Unit in Field Operations Support Unit.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

February 17, 2006

GENERAL LETTER NO. 13-B-15

ISSUED BY: IV-E Eligibility Unit, Field Operations Support Unit

SUBJECT: Employees' Manual, Title 13, Chapter B, *DETERMINING TITLE IV-E ELIGIBILITY*, Contents (pages 1 through 4), revised; and pages 4 through 8, 10, 14, 16 through 20, 26, 41, 42, 43, 54 through 58, 66, 76 through 80, 81, 89, 90, 95 through 101, 110, 112, 113, 127, 131, 132, 142, and 143, revised; and page 80a, new.

Summary

This chapter is revised to:

- ◆ Clarify definitions of “aggravated circumstances,” “placement and care responsibility,” and “trial home visit.”
- ◆ Change the name to reflect the new contract provider for the SSI Advocacy Project to “Maximus SSI Advocacy Project.”
- ◆ Clarify that a commitment order starts the episode of out-of-home care for IV-E determination.
- ◆ Correct policy to reflect that reasonable efforts to prevent the need for removal (RE1) are required within 60 days of the order sanctioning removal, even if the child is unable to be located and removed at the time of the removal, as this is viewed as a constructive removal.
- ◆ Modify policy regarding children who are removed from a parent or guardian yet allowed to remain in the same home with that parent or guardian but in the custody of another person. Previous policy stated this would not be considered a removal event. The Department has received federal clarification that, because the parent or guardian is not responsible for the day-to-day care and supervision of the child, this is considered a removal event and the start of the IV-E episode of out-of-home care.
- ◆ Clarify that when reviewing for the reasonable efforts to finalize the permanency plan of the child (RE2) finding, the finding must match the permanency plan goal that was in effect at the time of the finding or within the last 12 months.
- ◆ Clarify that the exemption of the first \$50 of current monthly child support is applied individually for each child when calculating the child’s income for both the initial and the ongoing eligibility determinations.

- ◆ Clarify how to compute a diversion when the household consists of multiple ineligible alien parents and children who must be excluded from the eligible group.
- ◆ Reflect a correction in Adoption Subsidy program policy in which a child diagnosed as “at risk” of developing a qualifying condition is added to the list of reasons a child may be considered “difficult to place”.
- ◆ Clarify how to determine 185% of a child’s maintenance cost when a child’s pre-subsidy maintenance payment has been reduced due to other income the child receives.
- ◆ Clarify the verification of disability that must be provided in order to continue claiming IV-E beyond age 18 for a child who has been previously determined eligible for adoption subsidy maintenance payments.
- ◆ Correct several cross-references and typographical errors.

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees’ Manual, Title 13, Chapter B, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (1-4)	July 20, 2004
4-8, 10, 14, 16-20, 26, 41-43, 54-58, 66, 76-81, 89, 90, 95-101, 110, 112, 113, 127, 131, 132, 142, 143	July 20, 2004

Additional Information

Refer questions about this general letter to the IV-E Eligibility Unit in the Field Operations Support Unit.