

NEW YORK STATE  
 DEPARTMENT OF SOCIAL SERVICES  
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243

CESAR A. PERALES  
 Commissioner



(An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.)

**ADMINISTRATIVE DIRECTIVE**

TRANSMITTAL NO.: 86 ADM-36  
 [Family and Children's Services]

TO: Commissioners of Social Services

SUBJECT: Adoption  
 Adoption Subsidy Payments

DATE: October 16, 1986

SUGGESTED DISTRIBUTION:  
 Directors of Social Services  
 Directors of Child Welfare Services  
 Directors of Authorized Adoption Agencies

CONTACT PERSON:

Any questions about this release should be directed to Fred Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3485; John O'Connor, Regional Director, Eastern Regional Office, telephone 518-473-1095; Karen Schimke, Regional Director, Buffalo Regional Office, telephone 716-847-3145; Frank Petrus, Regional Director, Western Regional Office, telephone 716-238-8201.

**I. PURPOSE**

The purpose of this directive is to advise social services districts of the changes in the Social Services Law and the Department's Regulations affecting adoption subsidies.

**II. BACKGROUND**

Section 473 of Title IV-E of the Social Security Act established a Federal Adoption Assistance Program. Chapter 97 of the Laws of 1983 made three amendments to subdivision 1 of Section 453 of the Social Services Law to insure State compliance with the provisions of the Federal Adoption Assistance Program. Section 453(1) of the Social Services Law requires social services officials to make monthly payments for the care and maintenance of handicapped or hard-to-place children who are placed out for adoption and for whom an adoption subsidy agreement is in affect; (2) deems children who receive such payments which are federally reimbursable to be recipients of Aid to Families with Dependent

**FILING REFERENCES**

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs.  | Social Services Law and Other Legal References | Bulletin/Chapter Reference | Miscellaneous Reference |
|--------------------|--------------------|--------------|--|----------------------------|-------------------------|
| 81 ADM 10          |                    | 421.24       | SSL 424a.1(d)                                  |                            |                         |
| 82 ADM 6           |                    | 430.12(e)(3) | SSL 453  |                            |                         |
| 83 ADM 43          |                    | 444.5        | SSL 454  |                            |                         |
| 84 INF 7           |                    |              | Title IV-E                                     |                            |                         |
| 84 ADM 4           |                    |              | Social Security Act                            |                            |                         |
| 84 ADM 15          |                    |              |  |                            |                         |
| 85 ADM 33          |                    |              |  |                            |                         |

DSS-2: (REV. 8/82)

Children (ADC) for purposes of determining eligibility of the child for medical assistance payments; and (3) provides that no maintenance subsidies may be paid if the local social services official determines that an adoptive parent is no longer legally responsible for the support of the child, or the child is no longer receiving any support from the adoptive parents.

Social services commissioners should be aware that a child will not be considered to be handicapped or hard to place under Title IV-E of the Social Security Act unless a reasonable but unsuccessful effort had been made to place the child with appropriate adoptive parents without providing adoption assistance. Such efforts do not have to be made if the efforts would prove to be detrimental to the best interests of the child. One example of where the required efforts do not have to be made is where the child has resided with the prospective adoptive parents as a foster child and there exists significant emotional ties with the parents.

Chapter 439 of the Laws of 1983 amended Sections 453 and 454 of the Social Services Law to provide for the continuation of non-federally reimbursable adoption subsidy and medical subsidy payments to the legal guardian of a handicapped or hard-to-place adopted child following the death of the adoptive parents of the child until the child reaches twenty-one years of age.

As a result of the enactment of Chapters 97 and 463 of the Laws of 1983, the Department promulgated regulations which implemented these Chapters. These regulations are attached for your information.

Prior to December 21, 1984, the effective date of the regulations, the practice of paying for the maintenance and medical expenses of handicapped or hard to place children who were placed for adoption varied in each social service district. Some districts treated the child's maintenance payments either as a foster care payment or an adoption subsidy. Medical care was provided by some districts under Title XIX when the child was eligible for medical assistance, or through the state's medical subsidy program where a child was ineligible for medical assistance. In cases where the child was not eligible for medical assistance or a medical subsidy, the adoptive parent was responsible for the child's medical expenses during the placement period.

The regulations now require payments for the care and maintenance of a child who is eligible for a subsidy to be made as a foster care payment during the period of the adoptive placement until finalization of the adoption.

### III. Program Implications

#### 1. Mandatory Payments

As the result of the aforementioned statutory changes, when an application has been made for a maintenance subsidy in accordance with Section 453.1(a) of the Social Services Law, the option to pay a maintenance subsidy on behalf of eligible handicapped or hard-to-place children has been removed. In those cases, subject to statutory and regulatory restrictions on continued payment and the exception which follows, local districts must now make a payment to parents who have adopted a child eligible for a maintenance subsidy.

No payment will be required or can be made on behalf of a child otherwise eligible for a maintenance subsidy if the adoptive parents were given the opportunity but chose not to make timely application for a maintenance subsidy.

#### 2. Foster Care Payment

Until finalization of an adoptive placement, the maintenance payment made to prospective adoptive parents who are not foster parents to the child will be paid as a foster care payment. This enables children eligible for an adoption subsidy to continue to have access to medical benefits as the district retains responsibility for providing such benefits during the placement period. For foster parents adopting a child in their care, the foster care payment also continues until the date of finalization.

#### 3. Certification of Parents

The prospective adoptive parents who are not foster parents will be certified as foster parents based upon the approved adoption home study conducted before a child is placed for adoption in the home.

A separate foster care home study is not necessary for such adoptive families, nor do they have to meet the foster care home requirements for licensing or certification as outlined in 18 NYCRR 444.5. However, in the event that the adoptive family expresses an interest in becoming a foster parent and the district is prepared to place a child with the family for the purposes of foster care, a foster care home study must be done.

Although the certification of the home is limited to the specific child or children being placed for adoption, it should be noted that the Child Care Review System (CCRS) cannot monitor to ensure that certification of the adoptive parents as foster parents is limited to the specific child being placed for adoption. The certification would enable any placement activity for any foster child to be recorded.

Adoptive parents are not eligible for foster care licensure pursuant to Section 377 of the Social Services Law if the number of children living in the home exceeds six children regardless of their age or legal status. An adoptive parent could not be certified as a foster parent pursuant to Section 376 of the Social Services Law where the number of non-foster children under the age of 13 and foster child(ren) of any age exceed six. For the purpose of certification, non-foster children thirteen years of age or older residing in the home are not counted for capacity purposes but should otherwise be considered in determining if the home can care for additional children. Exceptions to this general rule for certification and licensure include where the home is to be certified for more than six brothers and sisters of the same family. The other exception relates to where a child is returning to foster care or being transferred from an institution to a foster boarding home (Section 398.6(a) of the Social Services Law). Where a home cannot be licensed or certified, the adoptive parents will be paid a state adoption subsidy from the day of placement until finalization of the adoption.

Agencies which are only authorized to place out children for adoption cannot certify prospective adoptive parents as foster parents. In such cases the agency with the custody of the child will certify the adoptive parent as a foster parent. Agencies which are only authorized to place out children for adoption may supervise the adoption placement. When the permanency planning goal for a child is adoption and the child is in an adoptive placement, the Utilization Review Standards for adoption, as outlined in 18 NYCRR 430.12(e)(3), apply.

#### 4. Continuation of Maintenance and Medical Subsidy Payments

Upon the death of both adoptive parents, maintenance subsidy payments will continue to be made to the legal guardian of an adopted child until the child attains the age of 21. Districts will need to determine whether medical subsidy payments can continue to be given. If it is determined that they can be paid, medical subsidy payments can be made to the legal guardian or directly to a provider of medical care, services or supplies which are not otherwise covered or subject to payment or reimbursement by insurance, medical assistance or other sources.

To determine if medical subsidy payments can be given, districts must first determine if the child is eligible for medical assistance. For the purpose of determining the child's eligibility for medical assistance, the child is to be considered a household of one. If the child is eligible for medical assistance, medical subsidy payments should not be given.

When a child is ineligible for medical assistance, medical subsidy payments can be made on behalf of an adopted child, who prior to the death of the adopted parents, was eligible and receiving Title IV-E subsidy payments or who was non Title IV-E eligible but had been eligible for a medical subsidy at the time the Adoptive Placement Agreement was signed.

Maintenance and Medical Subsidy payments made to the legal guardian would no longer be federally reimbursable under Title IV-E of the Social Security Act but would now be paid from state and local funds.

Should the child(ren) return to the care of a social services commissioner, or should a social services commissioner determine that the guardian is no longer legally responsible for the support of the child or the child no longer receives support from the legal guardian, the subsidy payments must cease.

5. Medical Assistance

Children whose maintenance subsidy is eligible for federal financial participation pursuant to Title IV-E of the Social Security Act will be deemed eligible for Aid to Dependent Children and eligible for medical assistance. Such children are also eligible for programs that were formerly Title XX services but are now under the Federal Social Services Block Grant Program.

All current procedures for the medical assistance program and the medical subsidy program remain in place, including the process for handling benefits when placements are out of state.

6. Termination of Subsidy Payments

When an adoptive parent or legal guardian ceases to be legally responsible for an adopted child or the child is no longer receiving support from the adoptive parent or legal guardian, all subsidy, state or federal, would end.

7. Medical Benefits to Children in Adoptive Placement Who Are Not Eligible for Maintenance Payments

While the regulation refers specifically to maintaining or providing medical benefits to children eligible for maintenance payments during the adoptive placement, medical benefits should be continued for children placed for adoption where eligible, based on the child's status as a foster child in the custody of a local social services commissioner until the adoption is finalized. Most children who are placed in pre-adoptive homes will be eligible for medical assistance. The provision of such benefits until the adoptive parent assumes

legal custody of the child serves to protect the interests of the child and helps to eliminate the risk and fear of financial hardship that threaten adoptive parents and possible adoption placements.

For the purpose of determining the child's eligibility for Medicaid, the medical assistance income exemption level and resource level for a household of one should be utilized. Some children who are ineligible for medical assistance may be eligible for a medical subsidy. If foster children who are not eligible for medical assistance or a medical subsidy need medical care, the district remains responsible for providing such care under the provisions of sections 395 and 398(6)(e) of the Social Services Law. The district could recoup the cost of such care from the child's available income and resources.

Prior to determining eligibility for medical assistance, staff should review 81 ADM-10 and 84 ADM-15. Eligibility determinations for medical assistance should be done prior to determining the eligibility of a child for medical subsidy. In accordance with 84 ADM-15, "(t)he income and the resources of prospective adoptive parents may not be used to determine the child's eligibility for Medicaid, until the adoption is finalized". Where a child may be ineligible for medical assistance and he or she meets the medical subsidy criteria, a medical subsidy application should be completed. Pursuant to section 454(l) of the Social Services Law, medical subsidies can be paid prior to the finalization of the adoption, provided the subsidy agreement is entered into prior to the child's adoption. A medical subsidy agreement can be executed after a child's adoption if the adoptive parents first become aware of the child's physical or emotional condition or disability subsequent to the adoption and a physician certifies that the condition or disability existed prior to the child's adoption. If a child in foster care who is receiving medical assistance is placed in an adoptive home, the adoption is finalized and the amount of medical assistance provided to the child as a result of the finalization is terminated, reduced or suspended, notice of such termination, reduction or suspension and the right to a fair hearing to challenge such action must be given to the recipient in accordance with 18 NYCRR Part 358. If a fair hearing is requested as a result of such action, the provision of 18 NYCRR 358.8 concerning the continuation of assistance pending the results of the fair hearing must be complied with.

#### IV. Required Actions and Procedures

1. Subject to statutory and regulatory restrictions on continuation of payment, districts are required to make a monthly maintenance payment on behalf of an eligible handicapped or

hard-to-place child placed out for adoption and on whose behalf an application for a maintenance subsidy has been made in accordance with Section 453 of the Social Services Law.

2. Districts are required to make the monthly payment as a foster care payment from the date of placement to the date of the court order finalizing the adoption. In those cases where there is a need to withhold a child's birth name from the prospective adoptive parents, districts may issue medical assistance cards with the child's first name and the initial of the birth surname. After the date of the court order finalizing the adoption a State or Title IV-E adoption subsidy will be paid.
3. In order to make the foster care payment, districts are required to issue non-foster parents adopting children who are eligible for a subsidy a foster care certificate or license on the basis of an approved adoption home study.

While such pre-adoptive parents may be certified or licensed as foster parents prior to the placement of a child, it is important to restate that these homes are not to be considered foster homes. If a district is prepared to place a child with any adoptive family for the purposes of foster care, a foster home study must be done.

Prior to the placement of the child, a request for a facility identification number and State Central Register clearance must be made. Note, it is the opinion of the Department's Division of Legal Affairs that a second SCR clearance at the time the foster parents are certified as adoptive parents is necessary to comply with SSL 424-a.1(d). Requests for facility identification numbers and State Central Register clearance for parents adopting a child eligible for subsidy should be sent to the Department, Bureau of Services Information Systems, Mezzanine Level, 40 North Pearl Street, Albany, NY 12243, Attention Mr. Charles Kelley.

In completing the Certificate to Board Children Data Entry Form (DSS 2843-A) the district must indicate in the Certified Capacity, Certified Age Range, Type of Child Desired, Degree of Difficulty Willing to Accept fields the information regarding the type of child being placed in the home or desired by the adoptive parents. In the field Type and Care Certified, Adoption is the only one to be checked.

A completed DSS 2843-A must be sent to the Bureau of Services Information Systems, Attention Mr. Charles Kelley, to put the home in active code (01) status as an officially certified foster home. Since the certification of the home is limited to the specific child or children being placed, after finalization the foster home status must be closed by sending back a copy of

the (DSS 2843-A) with the letter "D" in the Action Code field and the number code 002 - Foster Parent Adopted Foster Child -entered in the Decert Reason field. (If there are other foster children in the home the foster home will remain open.) (A copy of DSS 2843-A is attached to this release as Attachment A.)

4. Districts are required to consider children receiving federally reimbursable maintenance payments as recipients of Aid to Families with Dependent Children for purposes of establishing eligibility for medical assistance.

Therefore, those children eligible to receive a Title IV-E adoption subsidy after finalization of the adoption will be automatically eligible for medical assistance. A new medical assistance card bearing the child's new name should be issued.

Children who are ineligible for a Title IV-E subsidy may be eligible for medical assistance in their new family units. Administrative Directives 84 ADM-4, 82 ADM-6, and 85 ADM 33 (page 16) which disregards the adoption subsidy as income to the child, should be reviewed before determining eligibility.

In order to ensure that medical subsidy payments will be made only for the cost of care, services and supplies for which the child or the adoptive parent(s) will not receive payment or reimbursement from insurance, medical assistance or other sources, the social services official shall request, from the adopting person(s), at the social services official's discretion, either annually and/or at the submission of any claim, information about medical insurance or other coverage available to such persons.

For children who are ineligible for medical assistance, because of their ineligibility for Title IV-E adoption assistance or Title XIX medical assistance benefits, an eligibility determination should be made to see if they could receive a State medical subsidy. Applications for medical and maintenance subsidies still must be made prior to the finalization of the adoption except as otherwise authorized by Section 454(4) of the Social Services Law.

All current procedures for the medical assistance program and the medical subsidy program remain in place, including the process for payment to out of state providers.

5. Adoption placement agreements and subsidy agreements, when appropriate, are still required when a child is being placed in a home for the purposes of adoption.

The adoptive placement agreement (DSS Form 570) has been revised, effective 10/85, to reflect that children placed for adoption will have continued medical coverage, when eligible, through Medical Assistance or the medical subsidy program during the placement period. (A copy of the revised form is attached to this release as Attachment B.)

Section V of the subsidy agreement (DSS Form 3527) has been revised, effective May 1985. Statement #2 in that agreement means that children eligible for subsidy will continue to have their medical expenses covered under Title XIX on the basis of eligibility for Medicaid as a foster child. (A copy of the revised section is attached to this release as Attachment C.)

6. Districts are required to withhold payment of an adoption subsidy when it is determined by the local social services official that an adoptive parent or legal guardian is no longer legally responsible for the support of the adopted child or the child is no longer receiving any support from the adoptive parents or legal guardian.
7. All foster care payments and adoption maintenance and medical subsidy payments (which will be made after finalization, except where a family may exceed the size requirements for certification as a foster home) will continue to be claimed in accordance with current instructions from the Bureau of Local Financial Operations.

#### V. SERVICES SYSTEMS INSTRUCTIONS

Case Opening Processing - The process for opening a case for adoption subsidy depends on whether the case was opened prior to or subsequent to finalization.

##### A. Processing a Subsidy Prior to Finalization

This is only applicable where parents cannot be certified as foster parents due to the size of their family.

- (1) Open the case with the child as a family (case) of one in the Services component of the Welfare Management System.
- (2) Since the adoptive parents cannot be certified as foster parents, the child must have a separate MA Only application processed for determination of eligibility for Title XIX (MA). (The child should be budgeted as a household of one. Review 81 ADM 10, 84 ADM 15 and 85 ADM 33 before determining eligibility.)

- (3) If the child is MA eligible, open the MA case and encode the Services Application with an eligibility code of 08 (MA).
- (4) If the child is not Title XIX eligible, a services income eligibility determination should be made and if income eligible, the Services Application encoded with an eligibility code of 14 - Income Eligible.
- (5) Complete case processing including: Full Data Entry (FDE); completion of the Services Financial Eligibility Display/Turnaround (SFED/T) authorizing the adoption subsidy as a purchase of service; and supervisory review and approval. To authorize adoption subsidy as a purchase of service the following procedure must be followed: Use the direct service code 01 (adoption) and choose one of the following codes for the Purchase of Service (POS) section of the WMS authorization.

Code 53 - Adoption Subsidy - For adoptive placements finalized prior to November 8, 1977. Reimbursement/funding is at the 50% state and 50% local rate (no federal participation available).

Code 54 - Adoption Subsidy - For adoptive placements finalized on or after November 8, 1977 and are not Title IV-E subsidies. Reimbursement/funding is at the 75% state and 25% local rate (no federal financial participation available).

Code 78 - Adoption Subsidy - For adoptive placements finalized on or after October 1, 1980 and eligible for Title IV-E payments. Reimbursement/funding is at the 50% federal, 37 1/2% state and 12 1/2% local rate. However, districts should note that reimbursement claims for the time period October 1, 1980 to March 31, 1982 remains at the 75% state and 25% local rate. This is due to the fact that New York State did not become a Title IV-E state (and thus eligible for federal financial participation) until April 1, 1982. Districts should reference 84 ADM-4 for Title IV-E Adoption Subsidy requirements.

It should be noted that codes 53 and 54 are not operational in the system at this time, and you will be notified of the scheduled date.

- (6) Each child receiving adoption subsidy must be tracked via the CCRS Supplemental Registration process.
- (7) All appropriate Assessment Service Plans, movement, adoption, and legal activities must be reported to CCRS.

**B. Processing a Subsidy After Finalization**

- (1) When the adoption is finalized, the Services case must be closed. Reason code 573 - Adoption Subsidized or code 574 -Adoption Not Subsidized is to be used as the reason for the case closing.
- (2) If reason code 573 - Adoption Subsidized is used, a Services case must be opened. The case for the child, as a family of one, must be opened using a new case number, the child's adoptive name and a new client identification number (CIN) assigned. In instances where adoptive subsidies are paid to a Vendor on behalf of a child both prior to and following adoption finalization, it is necessary that the Vendor ID of the adoptive parents be changed at the time that the child is assigned a new CIN. The child(s) new Social Security number must be entered when available.
- (3) Determination of eligibility for a Title IV-E subsidy or the State subsidy program must be made and the appropriate eligibility code for the child entered into WMS.

Code 53 - Adoption Subsidy - For adoptive placements finalized prior to November 8, 1977. Reimbursement/funding is at the 50% state and 50% local rate (no federal participation available).

Code 54 - Adoption Subsidy - For adoptive placements finalized on or after November 8, 1977 and are not Title IV-E subsidies. This would include situations where a legal guardian will receive subsidy payments upon the death of the adoptive parents. Reimbursement/funding is at the 75% state and 25% local rate (no federal financial participation available).

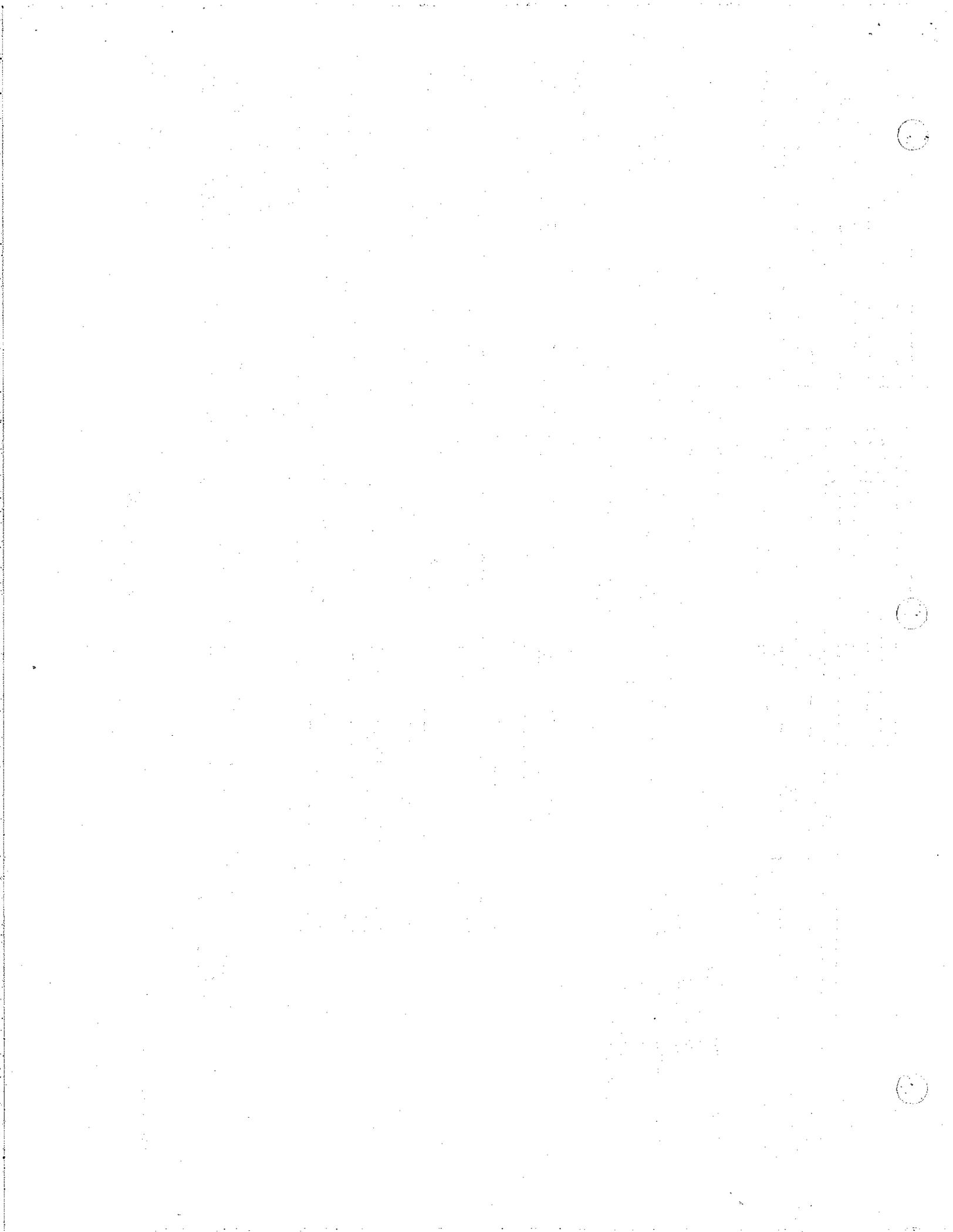
Code 78 - Adoption Subsidy - For adoptive placements finalized on or after October 1, 1980 and eligible for Title IV-E payments. Reimbursement/funding is at the 50% federal, 37 1/2% state and 12 1/2% local rate. However, districts should note that reimbursement claims for the time period October 1, 1980 to March 31, 1982 remains at the 75% state and 25% local rate. This is due to the fact that New York State did not become a Title IV-E state (and thus eligible for federal financial participation) until April 1, 1982. Districts should reference 84 ADM-4 for Title IV-E Adoption Subsidy requirements.

- (4) If the WMS/Services case is solely for the purposes of a subsidy, CCRS supplemental registration is not required.
  - (5) Recertification of the WMS/Services case must be done every six months in the Welfare Management System.
  - (6) Social Services Reporting Requirements (SSRR) and Random Moment Study (RMS-NYC) for Adoption Assistance must be reported using the appropriate codes: Adoption/Casework Counseling - code 01 (Title XX funded) and Adoption Assistance - code 81 (Title IV-E funded).
  - (7) If the subsidy is Title IV-E eligible, a Non-Services case (case type 13 - ADC or case type 20 - MA) must be opened for Medical Assistance coverage.
  - (8) If the subsidy is non-IV-E eligible (NYS Subsidy Program), medical coverage for the State Subsidy Program should be processed according to current guidelines. (Note that the child must be determined ineligible for Medical Assistance before a State medical subsidy can be granted.)
- VI. **EFFECTIVE DATE:** This Directive is effective as of December 21, 1984, the effective date of the regulations.

  
Joseph Semidei  
Deputy Commissioner  
Division of Family  
and Children Services

Attachments





DSS-570 (Rev. 10/85)

## ADOPTIVE PLACEMENT AGREEMENT

NEW YORK STATE

DEPARTMENT OF SOCIAL SERVICES

|  |  |                         |                    |
|--|--|-------------------------|--------------------|
| NAME OF ADOPTIVE FATHER                                    |  | NAME OF ADOPTIVE MOTHER |                    |
| ADDRESS OF ADOPTIVE PARENT'S (Number, Street, City, State) |  |                         |                    |
| NAME OF AGENCY   |  | FIRST NAME OF CHILD     | BIRTHDATE OF CHILD |

After careful consideration of the child and all that adoption involves, we receive in our home, from this agency the above named child.

In so doing we agree that:

- We will care for this child and meet the child's needs. However, the child will, where eligible, continue to receive medical, psychological, and surgical services in accordance with the medical assistance or medical subsidy programs to the extent permitted by law.
- We are taking this child with the intention of adoption although we understand that legal custody remains with \_\_\_\_\_ (agency) and that this adoptive placement agreement remains in effect until the date of legal adoption.
- The legal adoption will take place after both \_\_\_\_\_ (agency) and we agree that it is in the child's best interest.
- In the period prior to legal adoption a representative from \_\_\_\_\_ (agency) will visit us and the child periodically and that we may call on the agency for consultation.
- If at any time prior to legal adoption it is determined by the agency or by us that the child should be removed from our home, we will cooperate with the agency in carrying this out in a way that serves the best interest of the child in the judgement of the agency.
- It is duly acknowledged by the parties hereto that the adoptive parent(s) shall have the right to intervene as an interested party in any proceeding commenced to set aside a surrender purporting to commit a guardianship or custody of a child placed in the home of the adoptive parent(s). Such intervention shall be made anonymously or in the true name(s) of the above.
- We have been informed that this child (may be) (is not) eligible for adoption subsidy and a signed subsidy agreement (is) (is not) being forwarded to the New York State Department of Social Services for review and a determination as to eligibility. (Delete the statements which do not apply.)

|                             |             |                             |
|-----------------------------|-------------|-----------------------------|
| ADOPTIVE FATHER'S SIGNATURE | DATE SIGNED | ACCEPTED (Name of Agency)   |
| ADOPTIVE MOTHER'S SIGNATURE | DATE SIGNED | BY (Name of Representative) |



## SECTION IV

## ELIGIBILITY FOR FEDERAL ADOPTION ASSISTANCE

The child will be eligible for federal adoption assistance under title IV-E if both of the items below are checked:

- The child is handicapped or hard-to-place for reasons other than not having been placed for six months after freeing or disruption; and
- The child is in receipt of, or eligible for, title IV-E foster care or SSI on the date the adoption petition is filed (This should be checked if the child was in receipt of or eligible for Title IV-E or SSI on the date the adoption agreement was signed; if this eligibility status is changed between that date and the date the petition is filed an amended agreement will be prepared and presented to the parents).

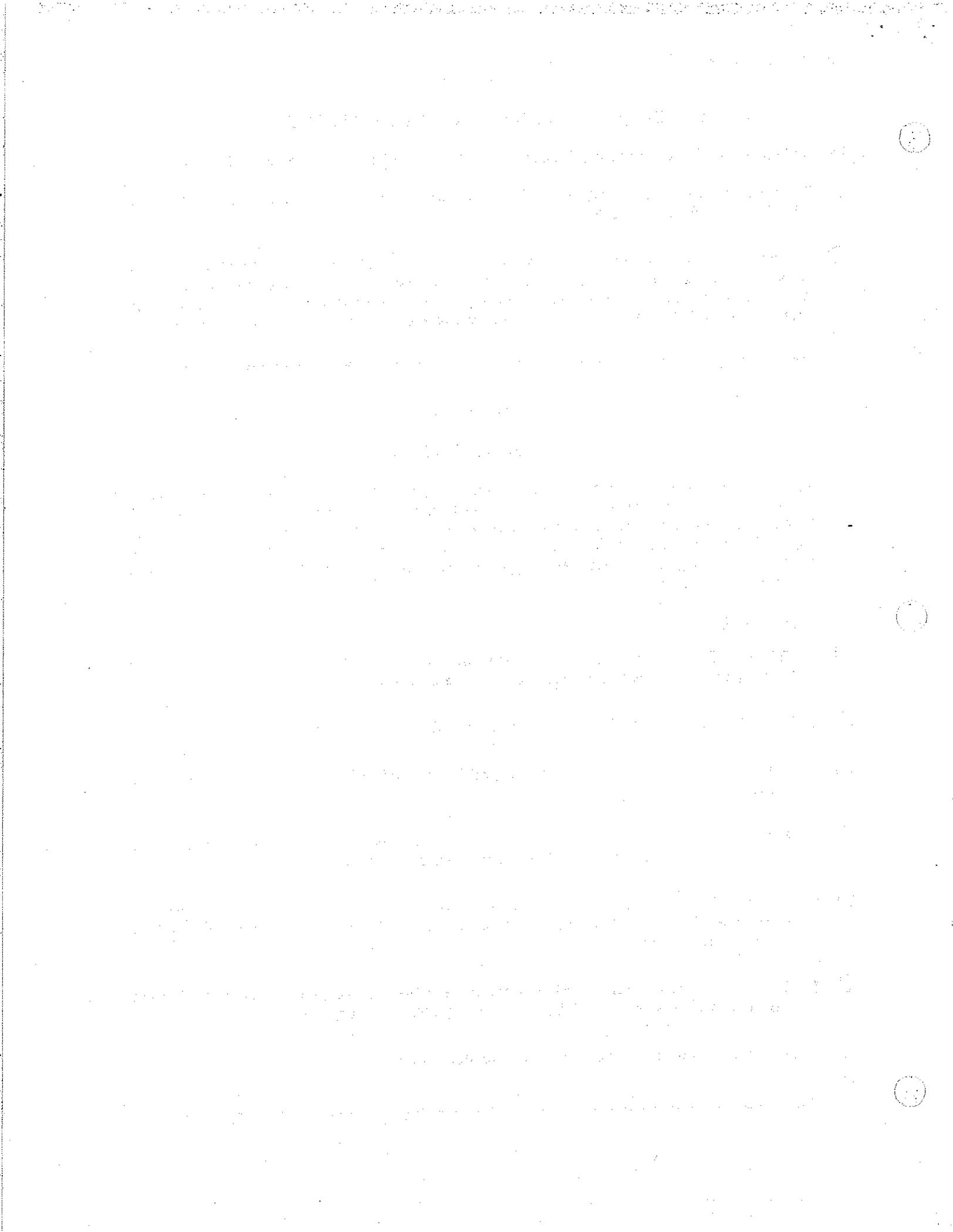
## SECTION V

## MEDICAL SUBSIDY

The availability and type of medical assistance depends upon whether the child is IV-E eligible, and if not, whether the child is handicapped or whether the adopting parent is 62 years old or over or subject to mandatory retirement from his or her present employment within five years of the adoption placement. When medical assistance is available it is limited to medicaid eligible services and to the amount not to exceed those specified in medicaid schedules and may not be paid for services covered by insurance or other third party payments.

Mark all that apply:

1. Child is IV-E eligible; will be covered by Medicaid from date of legal adoption to age 18; or age 21 if handicapping condition warrants continuation of assistance.
2. Until adoption, medical bills will continue to be paid under foster care;
3. Child is handicapped, but is not IV-E eligible; will be covered by NYS medical subsidy after finalization of adoption;
4. child is IV-E eligible and is handicapped; will be covered by NYS medical subsidy from ages 18 to 21 if IV-E eligibility is lost at age 18 and child remains dependent.
5. Child is IV-E eligible and is hard to place. Child is adopted by person(s) near retirement age, permanently disabled, or age 62 or over, will be covered by NYS medical subsidy from ages 18 to 21 if child remains dependent.
6. Child is hard to place and is adopted by person(s) near retirement age, permanently disabled, or age 62 or over, will be covered by NYS medical subsidy after legal adoption.
7. Child is not eligible for any medical assistance after legal adoption.



*Demedeo*  
*Filed 11/30/84*  
*effective 12/21/84*

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f) and 453(1)(a) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Section 421.24(b)(1), renumber paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15) of Section 421.24(b) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) and add a new paragraph (2) to Section 421.24(b), add paragraph (17) to Section 421.24(b), retitle Section 421.24(c), renumber Section 421.24(c)(1) as 421.24(c)(2)(i) and add a new paragraph (1) to Section 421.24(c) renumber Section 421.24(c)(2) as 421.24(c)(2)(ii) and add a new paragraph (2) to Section 421.24(c), renumber paragraphs (3), (4), (5), (6), (7), (8), (9), and (10) of Section 421.24(c) as subparagraphs (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of Section 421.24(c)(2), amend Section 421.24(c)(2)(ix), renumber Section 421.24(d) as Section 421.24(c)(3) and as renumbered, amended, add paragraphs (4) and (5) to Section 421.24(c), reletter subdivisions (e), (f), (g), (h), (i) and (j) of Section 421.24 as subdivisions (d), (e), (f), (g), (h) and (i), amend Section 421.24(d)(1), add paragraph (3) to Section 421.24(h) and add subdivision (f) to Section 444.5 of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective twenty-one days after filing with the Secretary of State.

Dated: November 29, 1984

Signed: *Cesar A. Perales*  
Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on 11/29/84 amending

Section 421.24(b)(1), renumbering paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15) of Section 421.24(b) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) and adding a new paragraph (2) to Section 421.24 (b), adding paragraph (17) to Section 421.24(b), retitling Section 421.24 (c), renumbering Section 421.24(c)(1) as 421.24(c)(2)(i) and adding a new paragraph (1) to Section 421.24(c) renumbering Section 421.24(c)(2) as 421.24(c) (2)(ii) and adding a new paragraph (2) to Section 421.24(c), renumbering paragraphs (3), (4), (5), (6), (7), (8), (9), and (10) of Section 421.24(c) as subparagraphs (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of Section 421.24(c)(2), amending Section 421.24(c)(2)(ix), renumbering Section 421.24(d) as Section 421.24(c)(3) and as renumbered, amended, adding paragraphs (4) and (5) to Section 421.24(c), relettering subdivisions (e), (f), (g), (h), (i) and (j) of Section 421.24 as subdivisions (d), (e), (f), (g), (h) and (i), amending Section 421.24(d)(1), adding paragraph (3) to Section 421.24(h) and add-

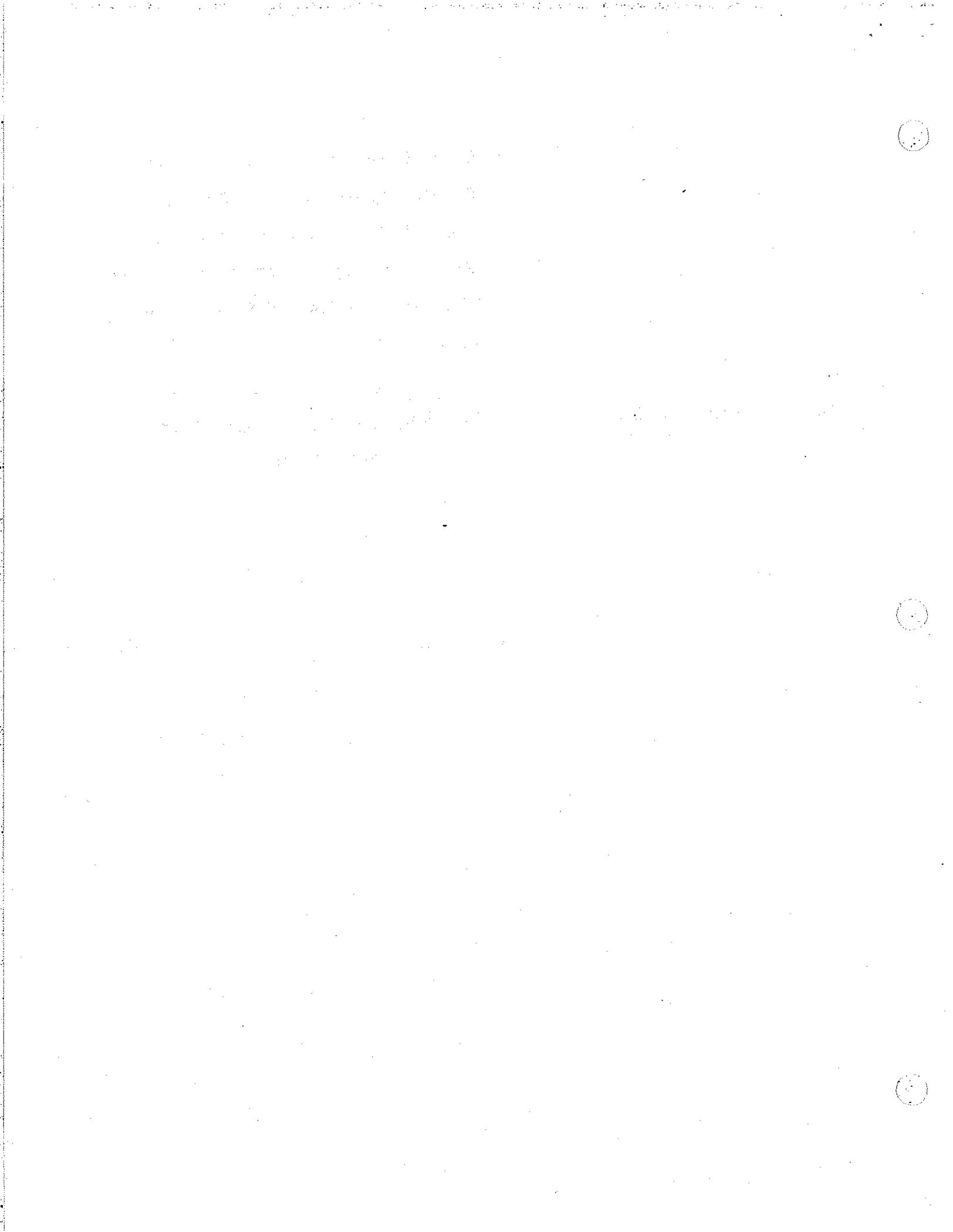
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ing subdivision (f) to Section 444.5 of the Official Regulations of the State Department of Social Services, being Title 18 NYCRR, the express terms of which were published in the New York State Register on June 6, 1984

Dated: November 29, 1984

Signed: Cesar A. Peralta

Commissioner



Paragraph (1) of subdivision (b) of section 421.24 is hereby amended to read as follows:

(1) A social service official [may] shall make monthly payments for the care and maintenance of a handicapped or hard-to-place child to the person(s) with whom the child has been placed out for adoption or by whom the child has been adopted when such payments were applied for prior to adoption according to such form and procedure as may be established by the Department.

Paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15) of subdivision (b) of section 421.24 are hereby renumbered as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) respectively and a new paragraph (2) is added to read as follows:

(2) Such payments shall be made as follows:

(i) In the case of a child who is being adopted by the foster parents with whom the child has been boarded, such payment shall continue as a foster care payment until the date of the court order finalizing the adoption and shall be made in accordance with Part 427 of this Title. Monthly payments for the care and maintenance of the child as an adopted child under the provisions of this subdivision shall begin on the date of the court order finalizing the adoption.

(ii) In the case of a child who is placed with and is to be adopted by parent(s) other than the foster parent(s) with whom the child had been previously boarded and who is otherwise eligible for an adoption subsidy payment, such payment shall initially be made as a foster care payment and shall be made from the day of placement

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for adoption to the parent(s) with whom the child is placed; provided such placement does not result in a violation of sections 378.3 or 378.4 of the social services law. If the placement would result in a violation of either of such sections, payment shall be made as an adoption subsidy payment from the date of placement. A certificate or license to board shall be issued to the parent(s) receiving the child for adoption. A completed and approved adoptive home study made pursuant to this Part shall be deemed to meet the requirements of Parts 443 and 444 of this Title for the issuance of such certificate or license to board. Foster care payments under this provision shall be made in accordance with Part 427\*of this Title. Except where the provisions of sections 378.3 or 378.4 of the social services law require that adoption subsidy payments be made to prospective adoptive parents prior to finalization of the adoption, such payments shall begin upon the day of the court order finalizing the adoption and shall be made in accordance with the provisions of this section.

Paragraph (17) is added to subdivision (b) of section 421.24 to read as follows:

(17) Upon the death of persons who have adopted the child prior to the twenty-first birthday of the child, payments made pursuant to this subdivision shall continue and shall be made to the legal guardian of the child until the child has attained the age of twenty-one. All provisions of this section applicable to maintenance payments made to persons who adopted the child shall be applicable to maintenance payments made to the legal guardian of the child.

Subdivision (c) of Section 421.24 is retitled to read as follows:

(c) Medical subsidy [to handicapped children] payments.

Paragraph (1) of subdivision (c) of section 421.24 is renumbered as subparagraph (i) of paragraph (2) of subdivision (c) of Section 421.24 and a new paragraph (1) is added to read as follows:

(1) Any child with respect to whom payments made for care and maintenance under subdivision (b) of this section are federally reimbursable shall be deemed a recipient of aid to families with dependent children for purposes of determining eligibility for medical assistance. Payments for medical care, services, and supplies for all such eligible children shall be made under and in accordance with the provisions of the state's program of medical assistance in Articles 3 and 4 of Subchapter E of this Title.

Paragraph (2) of subdivision (c) of Section 421.24 is renumbered as subparagraph (ii) of paragraph (2) of subdivision (c) of Section 421.24 and a new paragraph (2) of subdivision (c) of Section 421.24 is added to read as follows:

(2) For any handicapped child with respect to whom a payment made under subdivision (b) of this section is not federally reimbursable, the social services official may make payments for medical care, services and supplies subject to the following conditions:

Paragraphs (3), (4), (5), (6), (7), (8), (9) and (10) of subdivision (c) of section 421.24 are hereby renumbered subparagraphs (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) respectively of paragraph (2) of subdivision (c) of section 421.24.

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Subparagraph (ix) of paragraph (2) of subdivision (c) as renumbered is hereby amended to read as follows:

(ix) The agreement for medical subsidy payments shall not be subject to review or change, except that the social services official shall request, at the social services official's discretion, either annually and/or at the submission of any claim, information about medical insurance or other coverage from the adopting person(s) in order to determine compliance with [paragraph (5) of this subdivision] subparagraph (v) of this paragraph.

Subdivision (d) of Section 421.24 is renumbered as paragraph (3) of subdivision (c) of Section 421.24 and is amended to read as follows:

(3) [Medical subsidy for a hard-to-place child.] Payments for medical care, services and supplies for a hard-to-place child with respect to whom a payment under subdivision (b) of this section is not federally reimbursable may be made only if any adopting person at the time of adoption [ , ] is 62 years of age or older or is subject to mandatory retirement from his present employment within five years of the adoptive placement. Such payments shall be subject to the provisions of [subdivision (c) of this section] paragraph (2) of this subdivision.

Paragraphs (4) and (5) are added to subdivision (c) of Section 421.24 to read as follows:

(4) Upon the death of persons who have adopted the child prior to the twenty-first birthday of the child:

(i) the payments made pursuant to this subdivision shall continue and shall be made to the legal guardian of the child until the child has attained the age of twenty-one;

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(ii) the assistance provided pursuant to this subdivision shall continue in the form of a medical subsidy payment to the legal guardian of the child until the child has attained the age of twenty-one, if the child would otherwise have been eligible for a medical subsidy at the time of the application for an adoption subsidy; and

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(iii) payments made pursuant to the medical assistance program for a child eligible for federally reimbursable adoption assistance payments shall continue in a form of a medical subsidy payment pursuant to this subdivision to the legal guardian of the child until the child has attained the age of twenty-one if the child would otherwise have been eligible for medical subsidy at the time of the application for an adoption subsidy.

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(5) All provisions of this section applicable to medical subsidy payments made to persons who adopted the child shall be applicable to medical subsidy payments made to the legal guardian of the child.

Subdivisions (e), (f), (g), (h), (i) and (j) of section 421.24 are relettered (d), (e), (f), (g), (h) and (i) respectively.

Paragraph (1) of subdivision (d) of section 421.24 as relettered is amended to read as follows:

(1) Payments made pursuant to subdivision (b) [ , ] or (c) [ or (d) ] of this section with respect to a child who was adopted within this State but who has been removed legally from this State by his adoptive parent(s) shall remain in effect until the child's 21st birthday. Such payments shall be made to the adoptive parent(s) at the out-of-state address.

Subdivision (h) of Section 421.24 as relettered is amended by adding a new paragraph (3) to read as follows:

(3) No payments shall be made pursuant to this section if the social services official determines that the adoptive parents are no longer legally responsible for the support of the child or the child is no longer receiving any support from such parents.

Subdivision (f) is added to Section 444.5 to read as follows:

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(f) A certificate or license to board shall be issued to persons required to receive such certificate or license in accordance with subparagraph (ii) of paragraph (2) of subdivision (b) of Section 421.24 of this Title if such persons have had an adoptive home study made in accordance with Part 421 of this Title and such persons have been approved to adopt a handicapped or hard to place child.

(Deleted material [brackets]; new material underlined)