

Chapter One

Part B: Adoption Assistance Eligibility

The Office of Children and Family Services (OCFS) developed this section of the *Eligibility Manual for Child Welfare Services* to provide social services districts with the most up-to-date requirements for determining eligibility for Title IV-E Adoption Assistance provided to children with special needs. This Chapter section will also address eligibility for the New York State Adoption Subsidy program. It is designed to contain all relevant policy materials and procedural information for determining and authorizing eligibility, and for encoding the State's information systems that will lead to appropriate federal and State claiming of programmatic and administrative expenses. This section of the *Eligibility Manual for Child Welfare Services* will also assist districts on how best to document the eligibility decisions made and how to respond to federal and State audits of the eligibility determination, social services districts are not able to support eligibility for reimbursement.

Accessing federal and State funding for federal Adoption Assistance and/or State Adoption Subsidy depends on knowing specific eligibility rules for each funding category and applying these rules when determining eligibility for each special needs child being considered for adoption. The funding categories include Title IV-E Adoption Assistance and payment of Non-recurring Adoption Expenses, the State Adoption Subsidy, Medical Assistance under Title IV-E or the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and the State Medical Subsidy. Federal and State rules establish a hierarchy in determining eligibility for funding; federal funding always takes priority over State and local revenue sources. For example, Title IV-E Adoption Assistance must be determined first. If the child is ineligible for Title IV-E Adoption Assistance a determination must be made for the State Adoption Subsidy. In addition, the adoption assistance process involves the adoptive parents and the local social services district or the voluntary authorized agency entering into a written agreement. This is a required step and the application for both the Title IV-E Adoption Assistance and the State Adoption Subsidy. The Adoption Subsidy and Non-recurring Adoption Expenses Agreement must specify the nature and amount of assistance to be provided and must be approved by the social service district where the child is in the legal custody of the local district and finally, the agreement must be approved by the New York State Office of Children and Family Services (OCFS). For Title IV-E Adoption Assistance eligibility such approval must be in place prior to the completion of the adoption.



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Title IV-E Adoption Assistance Eligibility

Program/Funding Description:

The Title IV-E Adoption Assistance program provides funds to states to assist in providing ongoing financial and medical assistance (MA) for children with special needs. Funds are also used for the administrative costs of managing the program and training staff. The goal of this program is to facilitate the placement of handicapped or hard-to-place children in permanent adoptive homes and thus prevent long, inappropriate stays in foster care. (See *Appendix B* for federal and State definitions of special needs, handicapped and hard-to-place.) Title IV-E Adoption Assistance payments have been available for eligible children in New York State who were adopted on or after October 1, 1980.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893/P.L. 110-351) enacted in October 2008 was designed, in part, to assist children in foster care by promoting permanent families for children through adoption. One of these changes de-links outdated Assistance to Families with Dependent Children (AFDC) income requirements from Title IV-E Adoption Assistance eligibility and is effective for certain foster children beginning October 1, 2009 (federal fiscal year 2010) and will cover all foster children by October 1, 2017. (See *Financial Need* section for details).

Required Steps in Determining Eligibility

Prior to the time the adoption petition is filed and submitting an application for an adoption subsidy, complete the *Adoption Assistance Eligibility Checklist (LDSS-3912 rev. 10/10)* for every child being considered for adoption assistance. Using the Checklist is the first step to determine eligibility for Title IV-E Adoption Assistance funding. If it is determined that the child is not eligible for Title IV-E funding, continue to review the case to determine eligibility for the State Adoption Subsidy.

Title IV-E Adoption Assistance Requirements

To be eligible for Title IV-E Adoption Assistance, the child must meet four key eligibility requirements and each must be appropriately documented:

- Citizenship
- Age
- Special Needs
- Financial Need

Below are these Title IV-E requirements discussed in the order that they appear on the *Adoption Assistance Eligibility Checklist (LDSS-3912 rev. 10/10)*. Included in the discussion are instructions for completing the Checklist in its entirety and detailed explanations for each requirement along with the acceptable documentation. These instructions have been formatted to follow completion of the Checklist. (See *Appendix A* for a sample copy of the Checklist)

The symbol → indicates a direction to enter information. When necessary, the instructions are followed by an **Explanation** of the item and the **Documentation** required. Remember to complete a separate Checklist for each child being considered for adoption assistance eligibility.

Section I. Case Information

→ Enter Child's Name (Last, First, Middle Initial); Agency Name and Address; Unit/Worker Number; Date of Birth (DOB); Child's Client Identification Number (CIN); and Case Number.

Explanation:

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Use the most accurate data available for entering information. The Welfare Management System (WMS) Family Assistance/Safety Net (FA/SN) clearance (if available) contains reliable demographic data. See also court documents for date of birth. For CIN and case number, use pre-finalization information except in cases of post-finalization applications.

Section II. Title IV-E Adoption Assistance Eligibility Child Must Meet All Requirements Below for Title IV-E Adoption Assistance Eligibility:

1. **Citizenship.** Is the child a citizen of the United States or a qualified immigrant?

- Check YES if the child is a citizen of the United States or the child is a qualified immigrant.
- Check NO if the child is not a U.S. citizen or a qualified immigrant.

Explanation:

States are required to verify citizenship or immigration status of all children receiving federal adoption assistance payments. The child must be a United States (US) citizen or a qualified immigrant as defined by Federal law (Personal Responsibility Work Opportunity and Reconciliation Act [PRWORA] of 1996).

Children who have special needs who are not citizens or residents of the US and were either adopted in another country or brought to this country for the purposes of adoption are categorically ineligible for Adoption Assistance **except** if the child meets the eligibility criteria after the disruption of the international adoption and is re-adopted.

Citizenship *(continued)*

Documentation:

US Citizens:

- Birth certificate¹

Qualified Immigrants:

- WMS non-services screen indicating child received Family Assistance (FA), Medical Assistance (MA),²

¹ See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

² **Medicaid Exception:** Medicaid eligibility for otherwise eligible immigrants is not dependent on whether the immigrant is a qualified immigrant or non-qualified immigrant or the date on which the immigrant entered the U.S. as outlined in

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- U.S. Passport
- Naturalization certificate
- Court records
- Food Stamps (FS) or Home Energy Assistance Program (HEAP)
- United States Citizenship and Immigration Services (USCIS) document
- Court records
- See *Appendix B for Immigration Status List*

2. Age. Is the child under the age of 18?

- Check YES if the child is under the age of 18.
- Check NO if the child is not under the age of 18. ☞ **Go to Section III, State Adoption Subsidy Eligibility.**

Explanation:

Title IV-E Adoption Assistance is allowed up to the child's 18th birthday and in certain circumstances, may continue to age 21. (See the *Re-determination of Title IV-E Adoption Assistance* section for details.)

Documentation for Age:

- Non-services WMS screen reflecting the child's date of birth
- Birth certificate³
- Baptismal certificate
- Hospital Records
- U.S. Passport
- Naturalization certificate
- Court records
- School records
- Family Assessment and Service Plan (FASP)/Progress notes substantiate that one of the above certificates was seen by the caseworker—should include the child's name, date of birth, parents' names and certificate number

PRWORA. State and local Medicaid coverage cannot be denied if an otherwise eligible immigrant is permanently residing in the U.S. under Color or Law (PRUCOL) or is a lawfully admitted permanent resident. Also, federally funded Medicaid may be granted to otherwise eligible undocumented immigrants for emergency services only. Pregnant women are not required to document citizenship or immigration status in order to be eligible for Medicaid. These individuals can be identified on **upstate** WMS by category codes: **38** (Alien FP-Emergency Only); **37** (Alien FNP-Eligible MA-Does Not Meet PRWORA); and **76** (Legal Aliens-Eligible MA-Does Not Meet PRWORA). On **downstate** WMS, the individuals are identified by alien code **E** (Undocumented Aliens-Emergency MA Only) or State/federal charge codes: **60** (TANF Ineligible Alien) and **67** (Qualified Alien in the Five Year Ban for Medicaid/PRUCOL).

³ See *10-OCFS-INF-10* for details regarding birth certificates from Puerto Rico.

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3. Special Needs. Does the child have special needs as defined by Section 473(c) of the Social Security Act, outlined below in a, b, and c, prior to the finalization of the adoption?

☞ *Check below all factors that apply (all boxes [a, b, and c] must be checked to meet Title IV-E eligibility requirements).*

→ Check **Box a** if the State has determined that the child cannot or should not be returned to the home of his/her parents.

Explanation:

The State must have determined that the child cannot or should not be returned to the home of his/her parents through a termination of parental rights proceeding, a surrender or other court proceedings concluding that the child cannot be returned to his/her parents.

Documentation:

- A copy of the court order terminating parental rights **or**
- A signed surrender **or**
- Article 10 of the Family Court Act (FCA) order where birth parents are deceased.

AND

→ Check **Box b** if the child meets the criteria in 18 NYCRR 421.24(a)(2) or 421.24(a)(3)(iii) as either handicapped or hard-to-place (for reasons **other than** the child having been freed for six months or more and not placed in an adoptive home, or having been placed for adoption more than six months from the termination of a previous adoptive placement).

☞ *Check below the factor that applies (check only one box):*

→ Check the first box if the child meets the definition of handicapped.

→ Check the second box if the child meets the definition of hard-to-place.

Explanation:

The child must meet the criteria of a child with special needs, as outlined in 18 NYCRR 421.24(a)(2) for a handicapped child or as outlined in 18 NYCRR 421.24(a)(3)(iii) for a hard-to-place child with the exception of the six month criteria. This includes situations where a special condition or factor⁴ exists and it is reasonable to conclude that because of this condition or factor, the child cannot be placed with adoptive parents without providing medical and financial assistance. (See *Appendix B for Adoption Definitions of Handicapped and Hard-to-place.*)

⁴ Special Condition/Factor = The New York State definition of a handicapped or a hard-to-place child which includes ethnic background, age or membership in a minority or sibling group because of which it is reasonable to conclude that such child cannot be placed without providing adoption assistance or medical assistance satisfies the federal definition with the exception of the New York State six month criteria (i.e., the child was freed for adoption for at least six months and not placed in an adoptive home or placed for adoption six months or later from the termination of a previous adoptive placement).

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Special Needs *(continued)*

Documentation:

- Medical documentation indicating physical, mental or emotional handicap **or**
- Family Assessment and Service Plan (FASP)/Progress notes documenting that the child meets the criteria of a child with special needs.

AND

→ Check **Box c** if the State has determined that reasonable, but unsuccessful, efforts to place the child with appropriate parents without providing adoption assistance have been made, except when it has been determined that it would not be in the best interests of the child to make this effort (e.g., the child has developed significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child or the child is placed for adoption with a relative).

☞ *Check below the factor that applies (check only one box):*

- Check the first box if the child has been registered with NYSAS.
- Check the second box if the child has developed significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child or if the child is placed for adoption with a relative. Enter the date of placement with foster parents or relative.

Explanation:

The State must have determined that reasonable, but unsuccessful, efforts to place the child with appropriate parents without providing adoption assistance have been made (e.g., referral to the New York State Adoption Services (NYSAS) within 10 business days of being freed for adoption for children who have been in foster care for a period of three months or more and not in an adoptive placement except where a waiver of photo listing or a waiver of referral is authorized,⁵ or adoption exchanges, or referral to specialized adoption agencies). The only exception to these reasonable efforts is when it would not be in the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child or the child is placed for adoption with a relative.

Documentation:

- FASP/Progress notes listing the specific factor(s) or condition(s) making the child difficult to place and describing the efforts made by the Agency to place the child for adoption without providing assistance (e.g. photo listing, adoption exchanges and referral to specialized adoption agencies) **or**
- FASP/Progress notes explaining significant emotional ties with the prospective foster adoptive parent(s) or placement for adoption with a relative.

- Check YES if all boxes (a, b, and c) have been checked.
- Check NO if not all of the above boxes (a, b, or c) have been checked. ☞ **Go to Section III, State Adoption Subsidy Eligibility.**

⁵ See 97 ADM-14, *Referral of a Freed Child to New York State Adoption Services* for additional details on photo listing

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4. Financial Need. Does the child meet the requirements of financial need?

The child must meet the financial need requirement in one of the following ways:

Child Linked to AFDC Criteria	Child De-linked to AFDC Criteria
At the time of the child's removal from his/her home, the child received, or would have been eligible to receive, AFDC in accordance with program rules in effect on 7/16/96.	<p>The AFDC rule is not applicable because of federal de-linking rules, which indicate that the child must:</p> <ul style="list-style-type: none"> o Meet the qualified age or o Have been in foster care placement for 60 continuous months or o Be a sibling of an eligible child qualified by age (see table Explanation section) or length of stay (60 continuous months) in foster care and is to be placed in the same adoptive home as the eligible sibling. <p align="center">AND</p> <p>The child meets the special needs criteria as listed in prior pages (Special Needs section a, b and c)</p> <p align="center">AND</p> <p>At the initiation of adoption proceedings, a de-linked child had to be in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to an involuntary removal with a judicial determination that it was contrary to the welfare of the child to remain in the home; or a voluntary placement agreement or voluntary surrender.</p>
OR	OR
The child is eligible for SSI prior to finalization.	The child meets all medical and disability requirements with respect to eligibility for SSI benefits prior to finalization (which qualifies the child as special needs)
OR	OR
The child is a minor parent ⁶ in foster care and receiving Title IV-E Foster Care payments that cover both the minor parent and the minor parent's child prior to finalization.	<p>The child of the minor parent was residing in a foster family home or child care institution with his/her minor parent and the minor parent was removed from the home pursuant to either:</p> <ul style="list-style-type: none"> o An involuntary removal with a judicial determination that it was contrary to the child's welfare to remain in the home or o A voluntary placement agreement or voluntary surrender
OR	OR
The child was Title IV-E eligible in a previous adoption and prior to finalization of a subsequent adoption is determined to have special needs.	
OR	OR
A fair hearing has determined that adoption assistance was wrongfully denied.	
Please see the following pages for an Explanation of each of the above ways that a child may meet the financial need requirement	

⁶ Clarification received from HHS explains that Title IV-E Adoption Assistance, including an expanded subsidy amount, is available to cover the needs of an otherwise eligible minor parent and her infant when the parent is being adopted and her infant or child remains in her custody and lives with her in the adoptive home. (94 ADM-12, July 7, 1994, pp. 8-9.)

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Financial Need *(continued)*

☞ Check below the factors that apply - one box (either **a, b, c, d, e** or **f**) must be checked and if **b** is checked, **either box 1 or box 2 must also be checked** to meet Title IV-E eligibility requirements.

→ Check **Box a** if at the time of the child's removal from his/her home, the child received, or would have been eligible to receive, AFDC in accordance with program rules in effect on 7/16/96.

Explanation:

A child must be AFDC or Title IV-E eligible at the time of removal (when the initial Title IV-E Foster Care determination is done).

Establishing AFDC/Title IV-E Eligibility at the Time of Removal for Special Needs Linked Children: An Explanation

For voluntarily placed children:

Children (linked) placed pursuant to a Voluntary Placement Agreement must actually have received a Title IV-E Foster Care payment to be eligible for Title IV-E Adoption Assistance.

For court placed children:

At the initial Title IV-E Foster Care determination, if the child (linked) was Title IV-E eligible, the child is determined, as part of that process, AFDC eligible.

Documentation:

- The initial *Foster Child Eligibility Checklist (LDSS-4809)* or the *Automated Worksheet* showing Title IV-E categorically eligibility and relevant back-up documentation for that eligibility **or**
- For voluntarily placed children, the WMS screen showing Title IV-E Foster Care payments

However, if the child was determined **ineligible** for Title IV-E Foster Care, the child must meet **all** of the following AFDC criteria at removal in order to meet this requirement:

- Contrary to the welfare/best interest (in the initial removal court order or voluntary placement agreement)
- Parental deprivation (surrender or termination of parental rights [TPR] alone at removal is not proof that parental deprivation exists). The child need only meet one of the parental deprivation reasons.
- Age 18 or under
- Financial need based on parents' income and resources
- Removal from the home of a specified relative

Financial Need - Children Linked (continued)

Documentation:

Please check the eligibility record as this documentation may already be on file:

- **Best Interests** = the initial removal order indicating that continuation in the home is contrary to the welfare of the child or that removal is in the best interests of the child or that removal is necessary due to imminent risk; court order approving the Voluntary Placement Agreement (VPA)/VPA good for first 180 days from placement.

AND

- **Parental Deprivation**

- Absence from the home = Referral to the Child Support Enforcement unit indicating that at least one parent is absent from the removal home at time of removal; or court petition with this information; or FASP/Progress notes/Application for Services indicating that at least one parent is absent from the removal home at time of removal; **OR**
- Parental incapacity = State Data Exchange (SDX) indicating that at least one parent receives Supplemental Security Income (SSI); or Internal Age/Disabled (AD) unit information verifies that at least one parent is incapacitated; or medical/mental health/treatment report containing diagnosis and relationship of diagnosis to limited parental functioning or ability to earn income; or award letter from the Social Security Administration, the Workers' Compensation Board, the New York State Disability office or the Veterans Administration; or FASP/Progress note entry indicates caseworker observed obvious physical handicap for at least one of the parents; **OR**
- Unemployed or Underemployed parent = WMS screen indicating the family received Temporary Assistance (TA) or Medical Assistance (MA) during the month of removal; or the Resource File Integration (RFI/CINTRAK) report; or award letter from the New York State Department of Labor (NYSDOL) or copy of Unemployment Insurance Benefits (UIB) check; or wage stubs indicating income is below the medically needy level; or probation/pre-sentencing report; or FASP/Progress notes documenting consistent information regarding the employment or unemployment of the parent; **OR**
- Death of a Parent = Death certificate; or award letter indicating receipt of Survivors' Benefits or copy of Survivors' Benefit check; or other legal document indicating parent is deceased such as court petitions or a court order; or legal documentation indicating there is a court appointed guardian or legal custodian due to the death of the parent(s); or FASP/Progress notes that substantiate a death certificate was seen by the caseworker

AND

- **Age** = under age 18
 - Non-services WMS screen reflecting the child's date of birth
 - Birth certificate⁷
 - Baptismal certificate
 - Hospital Records
 - U.S. Passport
 - Naturalization certificate
 - Court records
 - School records
 - FASP/progress notes substantiate that one of the above certificates was seen by the caseworker—should include the child's name, date of birth, parents' names and certificate number

⁷ See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

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Financial Need - Children Linked *(continued)*

AND

- **Financial Need** = the source of the parents'/step/adoptive parents' income at removal will determine the required documentation

<u>Source of Income</u>	<u>Acceptable Documentation</u>
Wages/salary/tips from work	Current wage stub; or pay envelope; or employer letter; or contact with employer; or letter from Veterans Administration if parent is on active military duty; or RFI/CINTRAK report
Self-employment income	Business records; or tax records
Child support payments	Document from Office of Child Support Enforcement (OCSE) indicating payments; or statement from person paying the child support
Alimony	Statement from Family Court indicating amount received
Interest payments	Bank statements
<u>Other recurring income</u>	
Unemployment Insurance Benefits (UIB)	Correspondence from the NYSDOL
Veterans Benefits	Correspondence from the Veterans' Administration

AND

- **Removal from home of specified relative** = WMS clearance printout showing case composition and that the child was an active member in that case at the time of removal; or court petition indicating that the child had been living with a specified relative in the month of removal or in any of the six months before the month that that court petition or the order to show cause, seeking the child's removal from the home was filed or the date the Voluntary Placement Agreement was signed; or FASP/ Progress notes indicating that the child had been living with a specified relative in the month of removal or in any of the six months before the month that that court petition or the order to show cause, seeking the child's removal from the home was filed or the date the Voluntary Placement Agreement was signed; or FASP/ Progress notes indicate that the child had been living with a specified relative who is the representative payee for the child's case in the month of removal or during the defined period as indicated above.

AND

The child was determined special needs prior to finalization. (See *Special Needs* section above for documentation)

Financial Need (*continued*)

→ Check one of the boxes in **b** if this AFDC rule was not applicable because of the federal de-linking rules; check the applicable box:

- The child meets the qualified age; **or**
- The child has been in foster care placement for 60 continuous months; **or**
- The child is a sibling of an eligible child qualified by age (see table below) or length of stay (60 continuous months) in foster care and is to be placed in the same adoptive home as the eligible sibling; **and**

→ Check either box **1** or box **2**, as applicable, if at the initiation of adoption proceedings, a de-linked child had to be in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to an involuntary removal with a judicial determination that it was contrary to the welfare of the child to remain in the home **or** a voluntary placement agreement **or** voluntary surrender.

Establishing Eligibility at the Time of Removal for Special Needs De-Linked Children: An Explanation

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893) de-links a child's eligibility for federal adoption assistance payments from the outdated AFDC income requirement effective October 1, 2009 (federal fiscal year 2010) for certain foster children. More specifically, effective October 1, 2009, special needs children who reach the qualified age (see table below) at any time before the end of the federal fiscal year 2010 and for whom an *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* has been executed during that same year, are not required to be AFDC or Title IV-E eligible at the time the initial Title IV-E foster care eligibility determination is made. This also applies to:

- Any child (regardless of age) in foster care placement for 60 continuous months **and**
- Any sibling of an eligible child qualified by age (see table on following page) or length of stay (60 continuous months) in foster care and who is to be placed in the same adoptive placement his/her eligible sibling.

At the initiation of adoption proceedings, a de-linked child had to be in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to:

- An involuntary removal with a judicial determination that was contrary to the welfare of the child to remain in the home **or**
- A voluntary placement agreement or voluntary surrender. For de-linked children in placement due to a voluntary placement agreement, a Title IV-E foster care payment does not have to be made.

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Financial Need *(continued)*

Documentation:

- To verify that the child reached the qualified age:
 - Non-services WMS screen reflecting the child's date of birth
 - Birth certificate⁸
 - Baptismal certificate
 - Hospital Records
 - U.S. Passport
 - Naturalization certificate
 - Court records
 - School records
 - FASP/progress notes substantiate that one of the above certificates was seen by the caseworker—should include the child's name, date of birth, parents' names and certificate number

AND

- A copy of the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* indicating that the *Agreement* was executed during the same year the child reached the qualified age.
- To verify that the child has been in foster care for 60 consecutive months:
 - CCRS placement/movement and/or legal activity history, documenting time in foster care
 - WMS POS history, authorizing foster care payments for the required time period
 - Court records
 - The FASP/progress notes providing the case history and indicating that the child has been in placement for 60 consecutive months.
- To verify that the child is a sibling of an eligible child:
 - Birth certificates of both children that indicate children share at least one biological parent
 - Baptismal certificates that indicate children share at least one biological parent
 - Hospital records that indicate children share at least one biological parent
 - Court records
 - FASP/Progress notes that substantiate that that children are siblings
- To verify that at the initiation of adoption proceedings, the child was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to an involuntary removal with a judicial determination that was contrary to the welfare of the child to remain in the home:
 - The removal order indicating that it was contrary to the welfare of the child to remain in the home and that the child is in the legal custody of the LDSS/ACS
- To verify that at the initiation of adoption proceedings, the child was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to a voluntary placement agreement or voluntary surrender:
 - A copy of the voluntary placement agreement;⁹ or
 - A copy of the voluntary surrender

⁸ See *10-OCFS-INF-10* for details regarding birth certificates from Puerto Rico.

⁹ For **de-linked** children in placement due to a voluntary placement agreement, a Title IV-E foster care payment does not have to be made.

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Financial Need *(continued)*

The applicability of the de-linking provisions for special needs children who reach the qualified age at any time before the end of the applicable federal fiscal year and for whom an *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* has been executed during that same year is expanded every federal fiscal year by the child's age as follows:

<u>Date</u>	<u>Child Reaches Age</u>
October 1, 2009	16 year olds & older
October 1, 2010	14 year olds & older
October 1, 2011	12 year olds & older
October 1, 2012	10 year olds & older
October 1, 2013	8 year olds & older
October 1, 2014	6 year olds & older
October 1, 2015	4 year olds & older
October 1, 2016	2 year olds & older
October 1, 2017	All children

By October 1, 2017, the change will apply to all special needs children.

OR

→ Check **Box c** if the child is SSI eligible prior to finalization **or** the child is a de-linked child with special needs **or** the de-linked child meets all medical and disability requirements with respect to eligibility for SSI benefits prior to finalization.

Explanation:

If the child was eligible for Supplemental Security Income (SSI) benefits prior to adoption finalization, the child meets this financial requirement whether s/he is a de-linked child or not. The fact that a child is eligible for SSI means that the child meets all medical and disability requirements for financial need—that also meets the special needs requirement for de-linked children as they do not need to meet the SSI income requirements.

Documentation:

- Letter from the Social Security Administration (SSA) verifying eligibility for SSI **or**
- A copy of the SSI check confirming receipt of SSI at the time the adoption proceedings are initiated **or**
- State Data Exchange (SDX) screen indicating child is receiving SSI

Financial Need (continued)

OR

→ Check one of the boxes in **d** if the minor parent¹⁰ is in foster care and receiving Title IV-E Foster Care payments that cover both the minor parent and the minor parent's child prior to finalization or if the child of a de-linked minor parent was residing in a foster family home or child care institution with his/her minor parent and the minor parent was removed from the home pursuant to either an involuntary removal with a judicial determination that it was contrary to the child's welfare to remain in the home **or** a voluntary placement agreement or voluntary surrender.

Explanation:

If prior to adoption finalization, the minor parent is in foster care and receiving Title IV-E Foster Care payments that cover the minor parent and the minor parent's child, the requirement is met. (Title IV-E Adoption Assistance, including an expanded subsidy amount, which is available to cover the needs of an otherwise eligible minor parent when the parent is being adopted and her infant or child remains in her custody and lives with her in the adoptive home).

For a de-linked minor parent, the requirement is that his/her child was residing in a foster family or care institution with the minor parent and the minor parent was removed from the home pursuant to either an involuntary removal with a judicial determination that it was contrary to the child's welfare to remain in the home **or** a voluntary placement agreement or voluntary surrender. In these instances, the minor parent need not be receiving Title IV-E Foster Care payments.

Documentation:

Linked

- WMS screen showing minor parent receives Title IV-E Foster Care (expanded subsidy) payments for herself and her child.

De-linked

- Court order with a judicial determination indicating that it contrary to the welfare of the minor child to remain in the home **or**
- Voluntary Placement Agreement **or**
- Voluntary Surrender

¹⁰ Clarification received from HHS explains that Title IV-E Adoption Assistance, including an expanded subsidy amount, is available to cover the needs of an otherwise eligible minor parent and her infant when the parent is being adopted and her infant or child remains in her custody and lives with her in the adoptive home. (94 ADM-12, July 7, 1994, pp. 8-9.)

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Financial Need *(continued)*

OR

→ Check **Box e** if the child was Title IV-E eligible in a previous adoption and prior to finalization of a subsequent adoption is determined to have special needs.

Explanation:

Child was previously adopted and receiving Title IV-E Adoption Assistance in that adoption episode, but the adoption dissolved or the adoptive parent(s) died and the child returns to foster care;¹¹ if prior to finalization of a subsequent adoption, the child is determined to have special needs, the child meets this requirement (none of the other eligibility requirements need to be re-determined).

Documentation:

- Death certificate of adoptive parent(s) **or**
- Court documents verifying termination of previous adoption **and**
- FASP/Progress Notes indicating the child received Title IV-E Adoption Assistance in a prior adoption

OR

→ Check **Box f** if a fair hearing has determined that adoption assistance was wrongfully denied.

Explanation:

A fair hearing has determined that Title IV-E Adoption Assistance was wrongfully denied. In these instances, a new Checklist must be completed for the child.

Documentation:

- Copy of the Fair Hearing Decision

→ Check YES if any of the above boxes are checked.
☞ **Go to Section IV, Eligibility Summary & Signatures/Supervisor's Review**

→ Check NO if none of the above boxes are checked.
☞ **Go to Section III, State Adoption Subsidy Eligibility**

¹¹ Adoptions finalized on or after October 1, 1997: when a Title IV-E adoption has been dissolved or the adoptive parent(s) dies, Title IV-E eligibility for the case will resume if and when the child is re-adopted. Another eligibility determination for AFDC or SSI related purposes is not needed, but a determination of "special needs" eligibility must be documented for the new adoption. See *Other Eligibility Considerations, Death of Adoptive Parent* for additional details.

Title IV-E Adoption Assistance Decision

- If the child meets the citizenship, age, special needs and financial eligibility requirements, the child is Title IV-E eligible. Proceed to code WMS according to the instructions in the *Eligibility and Systems Information, Title IV-E Adoption Assistance WMS Coding Chart*.
- If the child is found ineligible for Title IV-E Adoption Assistance, the next step is to determine eligibility for the State Adoption Subsidy. See *State Adoption Subsidy* section for details.

Medical Assistance Decision

A child eligible for Title IV-E Adoption Assistance is automatically/categorically eligible for Medical Assistance (MA). The child continues to be eligible for MA under this category as long as the child continues to receive Title IV-E Adoption Assistance. When a child whose guardianship and custody has been committed to a voluntary authorized agency is adopted with Title IV-E Adoption Assistance, the social services district must authorize the MA for the child. To activate the MA, please enter appropriate codes in WMS. See the *Eligibility and Systems Information, Title IV-E Adoption Assistance WMS Coding Chart* for details.

To provide Medical Assistance prior to finalization (while child is still in foster care):

- If there is not a non-services case open for the child, open a non-services Medicaid case type **13** (Title IV-E eligible) or **20** (non-Title IV-E child) **or**
- For SSI eligible, verify that a non-services Medicaid case type **22** has been opened—these cases are usually opened via the automated SDX process and not by the LDSS

After the adoption has been finalized:¹²

- Close the non-services Medicaid case type **13** (Title IV-E eligible) or **20** (non-Title IV-E child) **and**
- Open a non-services Medicaid case type **20** for a Title IV-E and a non-Title IV-E child **or**
- If the child is in receipt of SSI (non-services Medicaid case type **22**), notify the Social Security Administration that the adoption has been finalized. The automated SDX process will close the old SSI case, open a new SSI case and a new non-services Medicaid case type **22** post finalization.

Important! If a new social security number is obtained, adoption staff should work with Medicaid staff so that the adopted child's new social security number is entered on the Medicaid case or that the original number (if no new number is to be issued) is retained outside of the system. An adopted child's original social security number must not be entered in WMS. A copy of this social security number is to be maintained in the hard copy sealed adoption case record and the Medicaid case record. This information on an adopted child is considered part of the confidential adoption record and must be protected to prevent disclosure of any identifying information to anyone other than personnel authorized by law to access such information!

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

¹² Be sure to include the individual category codes

The State Adoption Subsidy

Program/Funding Description:

This funding category is also used to assist states in providing ongoing financial and medical assistance for adopted children with special needs but only when it is determined that the child is ineligible for Title IV-E funding. As indicated previously, prospective adoptive parents must complete and sign an *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* (**LDSS-4623A** rev. 9/09) and receive approval from the social services district and OCFS to receive monthly payments where the child was in the legal custody of the local district or a certified or approved foster parent.¹³ Eligibility for the State Adoption Subsidy is more broadly defined by New York State than under the federal law.

Required Steps in Determining Eligibility

The Title IV-E Adoption Assistance section of the *Adoption Assistance Eligibility Checklist* (**LDSS-3912** rev. 10/10) must have been completed and should indicate that a Title IV-E Adoption Assistance determination was made and that the child was found to be ineligible. Using the Checklist, proceed to determine eligibility for the State Adoption Subsidy.

State Adoption Subsidy Requirements

To be eligible for the State Adoption Subsidy, when the child was found ineligible for Title IV-E Adoption Assistance, the child must meet two key eligibility requirements and each must be appropriately documented:

- Age **and**
- Handicapped/Hard-to-place Conditions/Factors

Below are these State Adoption Subsidy requirements discussed in the order that they appear on the *Adoption Assistance Eligibility Checklist* (**LDSS-3912** rev. 10/10). Included in the discussion are instructions for completing the Checklist and detailed explanations for each requirement along with the acceptable documentation. These instructions have been formatted to follow completion of the Checklist. (See *Appendix A* for a sample copy of the Checklist)

The symbol → indicates a direction to enter information. When necessary, the instructions are followed by an **Explanation** of the item and the **Documentation** required. Remember to complete a separate Checklist for each child being considered for adoption assistance.

¹³ For agreements where the child is in the legal custody of a voluntary authorized agency, only OCFS approval is required.

Section III. State Adoption Subsidy Eligibility

☞ Check below the factors that apply (one box must be checked in each question)

1. Age. Is the child under the age of 21 where guardianship and custody was transferred before the child turned age 18, with the exception where a TPR is filed before the child turns age 18 (as set forth in section 384-b of the SSL, the child has to consent to the transfer)? **OR** Was the child in foster care as an abused or neglected child but whose parents are deceased?

→ Check YES if the child is under the age of 21 and guardianship and custody was transferred prior to the age of 18 and the child consented to the transfer with the exception where a TPR was filed prior to the child turning age 18 **OR** if the child was in foster care as an abused or neglected child and his/her parents are deceased.

→ Check NO if the child does not meet one or neither requirements. (Child is ineligible for State Adoption Subsidy.) ☞ **Go to Section IV, Eligibility Summary & Signatures/Supervisor's Review**

Explanation:

A child meets the age requirement when s/he is under age 21 and guardianship and custody was transferred before the child turned age 18 and the child consented to the transfer except where a termination of parental rights is filed prior to the child's 18th birthday or the child was in foster care as an abused or neglected child and his/her parent or parents are deceased. See *Death of Adoptive Parent* section.

Documentation:

Any one of the following is acceptable to document the child's age:

- Non-services WMS screen reflecting the child's date of birth
- Birth certificate¹⁴
- Baptismal certificate
- Hospital Records
- U.S. Passport
- Naturalization certificate
- Court records
- School records
- FASP/progress notes substantiate that one of the above certificates was seen by the caseworker—should include the child's name, date of birth, parents' names and certificate number

Any one of the following is acceptable to document the transfer of guardianship and custody (check age of child at time petition to free the child for adoption is filed):

- Court order indicating guardianship and custody transferred to the local Department of Social Services (LDSS) or a voluntary authorized agency or a certified or approved foster parent **or**
- Voluntary Surrender (section 383-c or 384 of the Social Services Law)

To verify that the foster parent is certified or approved:

- Official proof of certification or approval as foster parent

¹⁴ See *10-OCFS-INF-10* for details regarding birth certificates from Puerto Rico.

Chapter One Part B: Adoption Assistance Eligibility

Age (continued)

To verify that the child was in foster care as an abused or neglected child:

- Court order indicating Article 10 removal

One of the following documents is acceptable to verify the death of the parent(s):

- Death certificate of the parent(s) **or**
- Other legal document that verifies that the court appointed a legal guardian or custodian for the child due to death of the parent(s) such as:
 - Court order of guardianship **or**
 - Court order of custody

The acceptable documentation to verify ineligibility for Title IV-E or SSI:

- The *Initial Foster Child Eligibility Checklist (LDSS-4809)*/ the completed *Automated Eligibility Worksheet* indicating the child was **ineligible** at initial determination for Title IV-E Foster Care

2. Handicapped/Hard-to-place (Condition/Factors). Does the child meet the criteria of 18 NYCRR 421.24 (a)(2) or (3) as either handicapped or hard-to-place?

☞ Check below the condition/factor that applies (check only one box):

- Check the first box if the child meets the definition of handicapped.
- Check the second box if the child meets the definition of hard-to-place.

Explanation:

The child meets the definition of handicapped according to 18 NYCRR 421.24(a)(2) or hard-to-place according to 18 NYCRR 421.24(a)(3) and is ineligible for Title IV-E Adoption Assistance if the child:

- Is under the age of 21, was freed for adoption before the age of 18 (or was freed after the age of 18 when the TPR petition was filed before the child turned age 18), and the child is handicapped as provided in 18 NYCRR 421.24(a)(2) and does not meet one of the eligibility requirements for Title IV-E Adoption Assistance. See *Appendix B* for definition of handicapped.
- Is under the age of 21, was freed for adoption before the age of 18 or was freed after the age of 18 when the TPR petition was filed before the child turned age 18), and is determined hard-to-place because there exists a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing financial or medical assistance and the child does not meet one of the eligibility requirements for Title IV-E Adoption Assistance.
- Is hard-to-place solely on the basis of being freed for adoption for at least six months without being placed for adoption.
- Is hard-to-place solely on the basis that the child has not been placed for adoption within six months from the date the previous adoption placement terminated.
(See *Appendix B* for definitions of handicapped and hard-to-place.)

Handicapped/Hard-to-place (Condition/Factors) (continued)

Documentation:

Handicapped:

- Medical documentation indicating physical, mental or emotional handicap

Hard-to-place:

- Surrender or TPR court order indicating freed date **or**
- Copy of the signed Adoption Placement Agreement (APA) indicating date child was placed **or**
- Death certificate if parents are deceased **or**
- FASP/progress notes document that there exists a specific factor or condition such as the child's ethnic background, age or membership in a minority or sibling group because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing financial or medical assistance.

Post-finalization Eligibility

→ Check the third box if the child has a pre-existing condition or disability unknown to the adoptive parents before finalization that otherwise satisfies the definition of a handicapped child.

Explanation:

The adoptive parents first become aware of the child's physical or emotional condition which would qualify the child as handicapped subsequent to the adoption. The condition or disability must qualify the child as handicapped according to 18 NYCRR 421.24(a)(2) and a doctor must certify that the condition existed prior to adoption finalization. In these instances, use the *Post Finalization Application* form (**LDSS-4623B**).

Documentation:

- Certification from a physician indicating that the child had a physical or emotional condition that existed prior to adoption and that condition qualifies the child as handicapped.

→ Check YES if the answer to question 1 is YES and one box is checked in question 2. (Child is eligible for State Adoption Subsidy.) ➔ **Go to Section IV, Eligibility Summary & Signatures/Supervisor's Review**

→ Check NO if the NO box is checked in question 1 and/or none of the boxes are checked in question 2. (Child is ineligible for State Adoption Subsidy.) ➔ **Go to Section IV, Eligibility Summary & Signatures/Supervisor's Review**

Chapter One Part B: Adoption Assistance Eligibility

State Adoption Subsidy Decision

If the child meets the age and one of the conditions/factors as indicated above, the child is eligible for the State Adoption Subsidy. Proceed to code WMS according to the instructions in the *Eligibility and Systems Information, State Adoption Subsidy WMS Coding Chart*.

The State Adoption Subsidy is authorized until the child reaches age 21; no payment may be made to adoptive parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents.¹⁵

If the child does not meet the age requirement or any of the handicapped/hard-to-place conditions/factors listed above, the child is ineligible for the State Adoption Subsidy. Proceed to code WMS according to the instructions provided in the *Eligibility and Systems Information, State Adoption Subsidy WMS Coding Chart*.

Before going to **Section IV. Eligibility Summary & Signatures/Supervisor's Review** portion of the *Adoption Assistance Eligibility Checklist (LDSS-3912 rev. 10/10)*, please see the *Medical Assistance* section on the next page.

¹⁵ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details

Medical Assistance Decision—State Adoption Subsidy Eligible Child

A child eligible for the State Adoption Subsidy must be evaluated for medical coverage according to the following hierarchy for determining Medical Assistance eligibility:

1. Medical Assistance under COBRA

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) extends MA eligibility to certain children not eligible for Title IV-E Adoption Assistance, without regard to the income and resources of the adoptive parents. For a non-Title IV-E eligible child, determine whether the child is eligible for MA under the COBRA provision because:

- The child has special medical or rehabilitative needs¹⁶ that would make placement for adoption without MA coverage difficult; **and**
- The child was in receipt of, or eligible for MA in the three-month period before the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* is signed.

Documentation:

- To verify the special medical or rehabilitative need, use the same documentation that verified eligibility for the State Adoption Subsidy **and**
- To verify that the child was in receipt of or eligible for Medicaid in the three month period prior to the signing of the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement*, if the child was in foster care placement and receiving Medical Assistance, the child meets the requirement. See *GIS-05 MA/04*.

To activate Medical Assistance under COBRA, enter appropriate codes in WMS according to the instructions provided in the *Eligibility and Systems Information, State Adoption Subsidy WMS Coding Chart* and:

- Close the non-services foster care Medicaid case prior to activating the MA under COBRA authorization for the Adoption Subsidy case.
- Remember, there is no review of the parents' or child's income or resources in order to continue the MA under COBRA.
- The child continues to be eligible for MA under the COBRA provisions up to age 21 as long as s/he continues to receive the adoption subsidy.
- The social services district must determine on an annual basis whether the adoptive parents continue to be legally responsible for the support of the child or that the child is receiving any support from such parents: no payment may be made to adoptive parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents.¹⁷

¹⁶ *09-OCFS-ADM-14*: A child who meets the State's definitions of handicapped or hard-to-place for purposes of adoption subsidy is considered to have special medical or rehabilitative needs according to the federal Medicaid eligibility criteria for COBRA. Most children will qualify for MA under COBRA due to their categorical eligibility for MA while in foster care placement. See ADM for details.

¹⁷ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details.

2. The State Medical Subsidy

Where there is a determination that a child is in the guardianship and custody of a social services district or a certified or approved foster parent where the parent or parents are deceased,¹⁸ and eligible for maintenance subsidy but ineligible for MA under the COBRA provisions, the social services district or voluntary authorized agency must determine if the child is eligible for the State Medical Subsidy. The child must satisfy the standards set forth in 18 NYCRR 421.24(a)(2) and (3) which provide that the child be:

- A handicapped child and ineligible for Medical Assistance under Title IV-E or COBRA **or**
- A hard-to-place child who is ineligible for MA under Title IV-E or COBRA and is being adopted by parents who are age 62 or older or within five years of mandatory retirement age.¹⁹

Documentation:

- To verify the handicapping condition and the hard-to-place status, use the same documentation that verified eligibility for the State Adoption Subsidy **or**
- To verify that a hard-to-place child was adopted by parents who age 62 or older, use the prospective adoptive parents' birth certificate **or**
- To verify that a hard-to-place child was adopted by parents who are within five years of mandatory retirement, use documentation from the prospective adoptive parent's place of employment indicating the mandatory retirement age **and**
- To verify that the child was found ineligible for MA under Title IV-E or COBRA, use the FASP/Progress notes.

To activate the medical coverage, enter appropriate codes in WMS according to the instructions provided in the *Eligibility and Systems Information, State Adoption Subsidy WMS Coding Chart* and:

- Close the non-services foster care Medicaid case prior to activating the State Medical Subsidy authorization for the Adoption Subsidy case.
- Remember, there is no review of the parents' or child's income or resources in order to continue the State Medical Subsidy.
- The child may receive the State Medical Subsidy up to age 21; however, no payment may be made to adoptive parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents.²⁰

¹⁸ Or where the child is in the guardianship and custody of a voluntary authorized agency.

¹⁹ The social services district should recommend to the adoptive parents of a hard-to-place child who is ineligible for either MA under COBRA or the State Medical Subsidy that they inquire of their local Department of Social Services about applying for Medicaid as a family so that there is the possibility of receiving Medicaid for the adoptive child through the family's eligibility. An adoptive family can apply for Child Health Plus B for the child who is ineligible for Medicaid, even if s/he does receive a Medical Subsidy. Medical Subsidy is not considered to be third-party health insurance.

²⁰ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details.

Chapter One Part B: Adoption Assistance Eligibility

Payment of Medical Bills under State Medical Subsidy

The local district has three options in regard to payment of medical bills for adopted children eligible for the State Medical Subsidy:

1. The adoptive parents may pay the medical provider directly for services rendered (includes care, services and supplies as authorized under the state's Medical Assistance Program) and submit the bill and proof of payment to the local district for reimbursement. In these instances, if the adoptive parent submits all proofs of having paid the medical provider, the local district is responsible for reimbursing the adoptive parent up to the current Medicaid rate.

or

2. The adoptive parents may submit the unpaid bill to the local district for the district to pay the medical provider directly.

or

3. The medical provider may submit the bill directly to the local district for the district to pay the medical provider.

It is recommended that the local district discuss the preferred option with the adoptive parents.

Section IV. Eligibility Summary & Signatures/Supervisor's Review

1. **Adoption Subsidy Agreement.** Was the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement (LDSS- 4623A rev. 9/09)* signed by all parties before the final decree of adoption (except in the case of a post finalization application)? To be eligible for Title IV-E Adoption Assistance and to comply with State Adoption Subsidy requirements, the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* must be completed and signed prior to the finalization of the adoption.

☞ One of the boxes below must be completed prior to entering the WMS Systems information for each child being considered for adoption assistance.

→ Check "YES" if the Adoption Subsidy Agreement was signed by all parties on or before the final decree of adoption. Enter the date of the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* was signed and the date of finalization on the spaces provided.

Explanation:

The *Adoption Subsidy and Non-recurring Adoption Expenses Agreement (LDSS-4623A rev. 9/09)* is a written agreement between the adoptive parents and the social services district or a voluntary authorized agency which must be approved by the social service district where the child is in the legal custody of the district with final approval from the New York State Office of Children and Family Services (OCFS).²¹ The *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* must specify the nature and the amount of assistance to be provided. This is a required step for **both** Title IV-E Adoption Assistance and the State Adoption Subsidy. It must be signed by all parties and in effect at the time of, or prior to, the finalization of the adoption **except** in the case of the following:

- A fair hearing determines that adoption assistance was wrongfully denied.
- The adoptive parents first become aware of the child's physical or emotional condition subsequent to the adoption, which would otherwise, qualify the child as handicapped and, a physician certifies that the condition existed prior to the adoption.

The amount of the Title IV-E Adoption Assistance or the State Adoption Subsidy payment is based on the circumstances and condition of the child and determined through the agreement. No means test can be used to determine eligibility of the adoptive parents for payment. However, the adoptive parents' income can be considered in determining the amount of the payment.²² Payment amounts may be adjusted periodically if circumstances change, with the concurrence of the adopting parents, the local district and OCFS where the child was in the legal custody of the local district or of the adopting parents and OCFS.²³

²¹ For agreements where the child is in the legal custody of a voluntary authorized agency, only OCFS approval is required.

²² See *08-OCFS-ADM-03* for details regarding payment amounts.

²³ Payment amounts may also be adjusted periodically where the child was in the legal custody of a voluntary authorized agency. See *08-OCFS-ADM-03* for details.

Chapter One Part B: Adoption Assistance Eligibility

The rate of payment must be increased whenever the applicable foster board rate increases or whenever the change in the age of the adoptive child qualifies the child for an increased rate. The adoption assistance payments may not exceed the foster care maintenance payments that would have been paid had the child remained in foster care.

Federal standards authorize that adoption assistance payments may start as soon as an agreement is signed and the child has been placed in an adoptive home. State standards for the commencement of subsidy payments generally authorize that they begin at the point of finalization and are set forth in 18 NYCRR 421.24(c)(2). However, effective May 7, 2008, adoption subsidy payments may begin prior to finalization of the adoption (from the date of adoptive placement), for approved adoptive parents who are not certified or approved foster or foster/adoptive parents (see NYCRR 421.24(c)(2)).²⁴

Documentation:

- *Adoption Subsidy and Non-recurring Adoption Expenses Agreement (LDSS- 4623A rev. 9/09)* signed by all parties before the final decree of adoption.

- Check “NO” if the *Adoption Subsidy Agreement* was not signed by all parties before the final decree of adoption. (Child is ineligible for Title IV-E Adoption Assistance or State Adoption Subsidy.)
- Check “EXCEPTION - Post finalization adoption subsidy application - use the *Post Finalization Application* form (**LDSS-4623B**)” if one of the exceptions cited above is applicable.

☛ **Complete the Eligibility and Systems information below.**

Explanation:

If the *Adoption Subsidy and Non-recurring Adoption Expenses Agreement (LDSS- 4623A rev. 9/09)* was not signed by all parties before the final decree of adoption, check the “NO” box as the child is ineligible for Title IV-E Adoption Assistance and the State Adoption Subsidy.

In instances where the adoptive parents first become aware of the child's physical or emotional condition that qualifies the child as handicapped subsequent to the adoption, check the “EXCEPTION” box and use the *Post Finalization Application* form (**LDSS-4623B**).

²⁴ See 10-OCFS-ADM-11, *Payment of Adoption Subsidies to Certain Approved Adoptive Parent(s) Prior to Finalization of the Adoption* and GIS 10-#005 for details.

2. Eligibility and Systems Information

Information must be entered on WMS:

- Check the “ELIGIBLE FOR TITLE IV-E ADOPTION ASSISTANCE AND MA” box if the child is eligible for Title IV-E Adoption Assistance and Medical Assistance. (See *Title IV-E Adoption Assistance WMS Coding Chart* after the following page for details)

Explanation:

If the child meets the age, special needs and financial (if applicable) eligibility documentation requirements for Title IV-E Adoption Assistance, the child is eligible. The adoption assistance and adoption services must be authorized on the Welfare Management System (WMS) and appropriate entries must be made to associated child welfare systems to reduce claiming errors and maximize federal reimbursement.

It is of utmost importance that accurate entries be made in all associated child welfare systems to reduce claiming disallowances and maximize federal reimbursement. These systems include CONNECTIONS (CONX), the Welfare Management System (WMS), the Child Care Review System (CCRS) and the Benefit Issuance and Control System (BICS). (See the *Closing Adoption Cases Guide* at:

<http://ocfs.state.nyenet/connect/jobiaades/closing%20adoption%20cases%20rev%201-21-09.pdf>)

Entries in CONX record the child’s discharge to the adoptive home as part of the child’s permanency plan and include the appropriate approvals. WMS is the system of record for authorizing the adoption assistance and adoption services. CCRS is the data base for legal activities, placement and movement activities and adoption activities. BICS maintains a record of all payments; it operates based on information the local district enters into WMS, CCRS and CONX.

As indicated above, adoption assistance and adoption services must be authorized on WMS. WMS will produce the *Services Authorization Form (LDSS-2970)*; this authorization is generated initially for a 12-month period. The case must be reauthorized on WMS every 12 months thereafter. (See *Re-determination of Title IV-E Adoption Assistance* section for items to review)

There is no required annual review of the parents’ or the child’s income in order to continue Title IV-E Adoption Assistance. Once eligibility has been established, it does not need to be re-determined until the child reaches age 18. (See *Re-determination of Title IV-E Adoption Assistance* section for items to review)

See chart on next page for Title IV-E Adoption Assistance WMS coding.

Title IV-E Adoption Assistance WMS Coding Chart

After freeing/Prior to finalization:²⁵

If there is not a case opened for the child, open the WMS services case with the child as a family of one.

- If the child has been determined to be Title IV-E eligible, enter eligibility code **02**.
- If the child is SSI eligible, enter eligibility code **06** (SSI-Blind) or **07** (SSI-Disabled).
- If the child is neither Title IV-E eligible nor SSI eligible, determine eligibility for the State Adoption Subsidy.

To provide Medical Assistance prior to finalization, i.e. while the child is still in foster care, you must proceed as follows:

- If there is not a Medicaid case open, open a non-services Medicaid case type **13** (Title IV-E eligible) or **20** (non-Title IV-E child).
- If the child is SSI eligible, check that a non-services case type **22** has been opened- these cases are usually opened via the SDX automated process and not by Services

When the adoption has been finalized:

- Close the WMS services case. The reason for closing the WMS services case should be either reason code **573** (adoption subsidized) or reason code **574** (adoption not subsidized).
- If Title IV-E Adoption Assistance is to be provided after finalization, open a WMS services case with the child as a family of one, use a new WMS services case number, and the child's adoptive name (new SSN and new CIN). If the child is Title IV-E eligible, enter eligibility code **02**. If the child is SSI eligible, enter eligibility code **06** (SSI-Blind) or **07** (SSI-Disabled). Enter direct service code **01** and POS code **52** (7/1/87-present) or **55**.²⁶

To provide Medical Assistance after finalization:

- Close the non-services foster care Medicaid case types **13** or **20**, prior to activating the new MA non-services case
- Open a non-services case type **20** for Title IV-E and non-Title IV-E eligible.
- If the child is SSI eligible (non-services case type **22**), notify the Social Security Administration that the adoption was finalized. The SDX automated process will close the old SSI case, open a new SSI case and non-services Medicaid case type **22** post finalization.

If a new social security number is obtained, adoption staff should work with Medicaid staff so that the adopted child's new social security number is entered on the Medicaid case or that the original number (if no number is to be issued) is retained outside of the system. An adopted child's original social security number must not be entered in WMS. A copy of this social security number is to be maintained in the hard copy sealed case record and the Medicaid case record. This information on an adopted child is considered part of the confidential adoption record and must be protected to prevent exposure of any identifying information to anyone other than personnel authorized by law to access such information!

²⁵ See 10-OCFS-ADM-11, *Payment of Adoption Subsidies to Certain Approved Adoptive Parent(s) Prior to Finalization of the Adoption* and GIS 10-#005 for details.

²⁶ POS code 55 is for adoptions finalized after 9/30/80 and before 7/1/87.

Chapter One Part B: Adoption Assistance Eligibility

→ Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY and MA (COBRA) box if the child is eligible for both the State Adoption Subsidy and MA under COBRA. (See the *State Adoption Subsidy WMS Coding Chart* on the next page for details)

Explanation:

If the child meets the age and the handicapped or hard-to-place documentation requirement and the child is **ineligible** for Title IV-E Adoption Assistance, the child is eligible for the State Adoption Subsidy. In these instances for purposes of adoption subsidy, the child is considered to have special needs according to federal Medicaid eligibility criteria for COBRA. (Most children will qualify for Medical Assistance under the COBRA provisions due to their categorical eligibility for Medical Assistance while in foster care with the exception of non-qualified immigrant children.)

The adoption subsidy and adoption services and the MA under COBRA must be authorized on the Welfare Management System (WMS) and appropriate entries must be made to associated child welfare systems to maximize State reimbursement.

→ Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY AND STATE MEDICAL SUBSIDY box if the child is eligible for both the State Adoption Subsidy and the State Medical Subsidy. (See the *State Adoption Subsidy WMS Coding Chart* on the next page for details)

Explanation:

If the child meets the age and the handicapped or hard-to-place documentation requirements and the child is **ineligible** for Title IV-E Adoption Assistance, the child is eligible for the State Adoption Subsidy. In these instances, if the child is also **ineligible** for MA under COBRA and the child is handicapped or hard-to-place and being adopted by parents who are age 62 or older or within five years of mandatory retirement, the child meets the criteria for the State Medical Subsidy.

The adoption subsidy and adoption services and the State Medical Subsidy must be authorized on the Welfare Management System (WMS) and appropriate entries must be made to associated child welfare systems to maximize State reimbursement.

→ Check the ELIGIBLE FOR STATE ADOPTION SUBSIDY box if the child is only eligible for the State Adoption Subsidy. (See the *State Adoption Subsidy WMS Coding Chart* for details)

Explanation:

If the child meets the age and the handicapped or hard-to-place documentation requirements and the child is found ineligible for Title IV-E Adoption Assistance, the child is eligible for the State Adoption Subsidy.

The adoption subsidy and adoption services must be authorized on the Welfare Management System (WMS) and appropriate entries must be made to associated child welfare systems to maximize State reimbursement.

State Adoption Subsidy WMS Coding Chart

After freeing/Prior to finalization:²⁷

If there is not a WMS services case opened for the child, open the WMS services case with the child as a family of one.

- Enter eligibility code **08** or **14** (eligibility to be determined by income, non-categorical) if the child is neither Title IV-E nor SSI

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

- Enter eligibility code **08** for the services case and open a non-services MA case type **20**.

When the adoption has been finalized:

If the State Adoption Subsidy (maintenance) is to be provided:

- Close the WMS services case and the non-services case types **20**. The reason for closing the WMS services case should be either reason code **573** (Adoption Subsidized) or reason code **574** (Adoption Not Subsidized).
- Open a WMS services case with the child as a family of one (use a new WMS services case number, the child's adoptive name, a new SSN and a new CIN).
- Enter eligibility code **14** (eligibility to be determined by income non-categorical).
- Enter direct service code **01** and POS code **52** (7/1/87-present) or **55**.²⁸

To provide medical coverage after finalization:

- Close the non-services foster care MA case type **20** prior to activating the MA under COBRA or the State Medical Subsidy
- Determine the child's eligibility for Medical Assistance under the COBRA provisions. If the child is eligible for Medical Assistance under COBRA:
 - Enter eligibility code **08-MA** and
 - Open a non-services MA case type **20**.
- If the child was found ineligible for MA under COBRA, determine the child's eligibility for the State Medical Subsidy. If the child is eligible for the State Medical Subsidy:
 - Open only a services case
 - Enter eligibility code **14** (eligibility to be determined by income non-categorical)
 - Enter direct service code **01** and POS code **77** (State Medical Subsidy)

If a new social security number is obtained, adoption staff should work with Medicaid staff so that the adopted child's new social security number is entered on the Medicaid case or that the original number (if no number is to be issued) is retained outside of the system. An adopted child's original social security number must not be entered in WMS. A copy of this social security number is to be maintained in the hard copy sealed case record and the Medicaid case record. This information on an adopted child is considered part of the confidential adoption record and must be protected to prevent exposure of any identifying information to anyone other than personnel authorized by law to access such information!

²⁷ See 10-OCFS-ADM-11, *Payment of Adoption Subsidies to Certain Approved Adoptive Parent(s) Prior to the Finalization of the Adoption* and GIS 10-#005 for details.

²⁸ POS code 55 is for adoptions finalized after 9/30/80 and prior to 7/1/87.

Chapter One Part B: Adoption Assistance Eligibility

- Check the INELIGIBLE FOR TITLE IV-E ADOPTION ASSISTANCE AND STATE ADOPTION SUBSIDY box if the child is not eligible for either Title IV-E Adoption Assistance or the State Adoption Subsidy.
- Sign and enter the date.
- Obtain the supervisor's signature and date.

Section V. Documentation of Eligibility

This section of the Checklist is designed to allow a recording of what documentation was secured for both Title IV-E Adoption Assistance and the State Adoption Subsidy. For cases found eligible for Title IV-E or the State Adoption Subsidy, all items should be completed by noting the document(s) used to support each element of the criteria and where in the case record this documentation can be found.

- List the documentation used for each item. The acceptable documentation for all items is listed under the **Documentation** heading for each funding category in previous pages.

Be sure to enter the location of all documentation in the case record on the designated area; or check the box if attached to the Checklist.

Recommendation:

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

Other Eligibility Considerations

Death of Adoptive Parent → Provision of State Adoption Subsidy

In instances where a child was adopted prior to his/her 21st birthday and is in receipt of Title IV-E Adoption Assistance and the sole or surviving parent or both adoptive parents die, categorical eligibility for Title IV-E Adoption Assistance terminates. In these instances, the State Adoption Subsidy must be provided until the child attains age 21 years²⁹ to either:

- The court appointed guardian **or**
- A person who is awarded legal custody by the court

If the guardian or custodian was the caretaker of a child under the age of 18 years prior to legal transfer of guardianship or the order of custody, such payments must be made retroactively from the death of the adoptive parent(s).

In instances where the sole or surviving adoptive parent or both adoptive parents die after the child's 18th birthday and before the child's 21st birthday, where such adoptive parent or parents were receiving adoption subsidy payments at the time of death, such payments must:

- Continue to the guardian of the child on behalf of the child (where the child consents to the appointment of a guardian)
- Be made retroactively from the death of the adoptive parent(s) to the appointment of a guardian
- Continue until the child's 21st birthday³⁰

If there is no willing or suitable person to be appointed as guardian, or the child does not consent to the appointment of a guardian, such subsidy payments must be made retroactively from the death of the adoptive parent(s) and must continue to be made until the child's 21st birthday to:

- The child through direct payments if the social services official determines that the child demonstrates the ability to manage such direct payments **or**
- A representative payee certified by the social services official

↳ Please note: In instances where a child is receiving Title IV-E Adoption Assistance and the sole or surviving parent or both adoptive parents die, categorical eligibility for Title IV-E MA is lost. A determination must be made for Medical Assistance under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). If the child is ineligible for MA under the COBRA provisions, the child may be eligible for the State Medical Subsidy. The Medical Assistance under COBRA or the State Medical Subsidy will continue until the child reaches age 21 to either the court appointed guardian or the person awarded legal custody by the court, if the child continues to be dependent on such guardian/custodian.

²⁹ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details.

³⁰ *Ibid.*

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Documentation:

Please file one of the following documents in the case record to verify the death of the adoptive parent(s):

- Death certificate of the adoptive parent(s) **or**
- Other legal document that verifies the death of the adoptive parent(s) **and**, if continuing assistance, one of the following:
 - Court order of guardianship **or**
 - Court order of custody

Education and Support Requirements for Adoption Assistance – For both Title IV-E Adoption Assistance and the State Adoption Subsidy³¹

As part of the signed *Adoption Subsidy and Non-recurring Adoption Expenses Agreement* (**LDSS-4623A** rev. 9/09) between the adoptive parents and the local district,³² the adoptive parents must be informed that they are obligated to notify the local district³³ of any changes in the residential or dependency status of the adoptive child, including circumstances which would make them ineligible for the adoption subsidy.³⁴

In addition, the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 requires assurances applicable to each child eligible for Title IV-E funding who has attained the minimum age for compulsory education under State law.

For school-age (based on laws of the state where the child resides), adopted children in receipt of adoption subsidy, the adoptive parents must certify that the adopted child is one of the following:

- A full-time elementary or secondary student **or**
- Has completed secondary education **or**
- Is incapable of attending school on a full-time basis due to the adopted child's medical condition, where the incapacity is supported by annual information submitted by the adoptive parent as part of this certification.

³¹ See *Social Security Act §473, 09-OCFS-ADM-11* for details.

³² For children in guardianship and custody of a voluntary authorized agency, the *Agreement* is between the adoptive parent(s) and OCFS.

³³ For children in guardianship and custody of a voluntary authorized agency, the adoptive parent(s) must notify OCFS.

³⁴ See *Social Security Act §473, 09-OCFS-ADM-11* for details.

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For purposes of this certification, an elementary or secondary school student means an adopted child who is:

- Enrolled, or in the process of enrolling, in a school which provides elementary or secondary education, in accordance with the laws of the jurisdiction in which the school is located **or**
- Instructed in elementary or secondary education at home, in accordance with the laws of the jurisdiction in which the adopted child's home is located **or**
- In an elementary or secondary independent study educational program, administered by the local school or school district, in accordance with the laws of the jurisdiction in which the adopted child's school or school district is located.

Documentation:

On an annual basis, to comply with federal and State laws and regulations, adoptive parents must be sent a letter with a certification form for them to fill out and return to the local district³⁵ that attests to their providing support and certifying the educational status of the adopted child.

- If the adoptive parents advise that they are no longer legally responsible for the support of the child or that the child is no longer receiving any support from such parents, the local districts must close the WMS subsidy case. All subsidy payments must cease as of the date of the change in circumstances. A written notice of termination of subsidy payments with the right to a fair hearing must be provided to the adoptive parents. Overpayments are subject to recovery.
- If the adoptive parent advises that the school-age child has a medical condition where incapacity makes the child unable to attend school full-time, the child's condition must be documented by a physician or a physician's assistant or a nurse practitioner under the supervision of a physician or a licensed psychologist. Upon failure to receive this documentation, every effort should be made to attain it.
- If the local district is informed that the school-age child has not completed compulsory education, is not a full-time student or is incapable of attending school on a full-time basis due to the medical condition of the child, as supported by required documentation, subsidy must continue to be paid; however, no payment may be made to adoptive parents with respect to any child if the State determines that the adoptive parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. (See *Social Security Act §473* and *09-OCFS-ADM-11* for details.)

³⁵ For children in guardianship and custody of a voluntary authorized agency, the form must be returned to OCFS.

Re-determination of Title IV-E

Once a child is determined eligible to receive Title IV-E Adoption Assistance, s/he remains eligible and the assistance continues until:

- The child reaches age 18 and is hard-to-place,* **or**
- The child reaches age 21 if the social services district determines that the child has a mental or physical disability that warrants the continuation of federal assistance) **or**
- The social services district determines that the adoptive parents are no longer legally responsible for the support of the child or if the social services district determines that the child is no longer receiving any support from such parents.³⁶

*As of October 1, 2010, Title IV-E Adoption Assistance may continue to age 21 for hard-to-place children³⁷ if:

- The youth is part of an Adoption Assistance Agreement that is in effect under section 473 of the Social Security Act and the youth had attained 16 years of age before the agreement became effective³⁸ **and**
- The youth meets at least one of the below listed conditions:
 - Completing secondary education or program leading to an equivalent credential, e.g., a youth age 18 and older is finishing high school or taking classes in preparation for a general equivalency diploma exam; **or**
 - Enrolled in an institution which provides post-secondary or vocational education, e.g., a youth could be enrolled full-time or part-time in a university or college or enrolled in a vocational or trade school; **or**
 - Participating in a program or activity designated to promote or remove barriers to employment, e.g., a youth could be in Job Corps or attending classes on resume writing and interview skills; **or**
 - Employed for at least 80 hours per month, e.g., a youth could be employed part-time or full-time at one or more places of employment; **or**
 - Is incapable of doing any of the above educational or employment activities due to a medical condition.

³⁶ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details.

³⁷ See *10-OCFS-ADM-10, Title IV-E Foster Care and Adoption to Age 21* for details.

³⁸ It is suggested that a log be kept of every child who attained age 16 before the Adoption Subsidy Agreement became effective to track which adoptive families need to be sent a letter and certification form and ensuing re-determination.

Chapter One Part B: Adoption Assistance Eligibility

Therefore, a re-determination of the Title IV-E must be done at age 18 for handicapped children and at ages 18, 19 and 20 for hard-to-place children who had attained age 16 before the adoption agreement became effective to see if the child's circumstances warrant continuation of the Title IV-E Adoption Assistance. The WMS Anticipated Future Action (AFA) Report may be used as a reminder for this activity. System-generated AFA code **105** identifies children turning age 18, AFA code **113** identifies children turning age 19 and AFA code **114** identifies children turning age 20.

For children identified on the WMS Anticipated Future Action (AFA) Report³⁹ as AFA **105**, review the case to see if any of the following apply and take action accordingly:

- For a handicapped child where the handicapping condition warrants continuation of federal assistance beyond age 18 (up to the child's 21st birthday):
 - The Title IV-E Adoption Assistance must continue as long as the adoptive parent remains legally responsible for the support of the child or the child continues to receive any support from such parents.⁴⁰
 - If eligibility for Title IV-E is lost because the handicapping condition no longer warrants payment of a federal benefit:
 - The child must receive the State Adoption Subsidy until age 21.
 - In these instances, change the eligibility code from **02** to either **14** or **08**, as appropriate. (See *State Adoption Subsidy WMS Coding Chart* for details.)
 - The adoptive parent must still remain legally responsible for the support of the child or the child continues to receive any support from such parents.⁴¹
- For a hard-to-place child age 18 or older, where the child attained age 16 before the adoption agreement became effective and the child meets at least one of the educational, vocational, employment or medical criteria⁴² listed on the previous page:
 - Send a letter and a certification form to the adoptive parent(s) at least one month before the child turns age 18, so that they can provide the necessary information to establish continuing Title IV-E eligibility.
 - Remember to make this re-determination again when the child turns age 19 and at age 20⁴³ if the adoptive parent(s) remains legally responsible for the support of the child or the child continues to receive any support from such parent(s)
 - Indicate on the letter or on the certification form, a reasonable time for the return of the certification form.

³⁹ Use the *WMS Anticipated Future Action (AFA) Report* to also identify children turning ages 19 and 20.

⁴⁰ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details.

⁴¹ *Ibid.*

⁴² See *10-OCFS-ADM-10, Title IV-E Foster Care and Adoption to Age 21* for details.

⁴³ AFA code **113** identifies children turning age 19 and AFA code **114** identifies children turning age 20.

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- If the “Incapable” box is checked on the returned certification form, the adoptive parent must submit information which describes the incapacity that prevents participation in one of the other activities listed. The child’s condition must be documented by a physician, or a physician’s assistant or a nurse practitioner under the supervision of a physician or a licensed psychologist.
- If any of the other boxes are checked and the returned certification form is completely filled out, continue the Title IV-E
- If the completed form is not returned by the due date, it is recommended that the form be sent a second time.
- If there is no response to the second inquiry, where possible a telephone call is recommended.
- In no event should an adoption subsidy be suspended or terminated due to failure to reply. However, the **federal Title IV-E claiming must cease**⁴⁴ under the following circumstances:
 - The required documentation is not received; or
 - The required documentation is received, but the response indicates that the federal standards (parental support, education, employment or medical condition) are not met.
- In these instances, the State Adoption Subsidy (maintenance) must be provided until age 21 as follows:
 - Change the eligibility code from **02** to either **14** or **08**, as appropriate.
 - The adoptive parent must still remain legally responsible for the support of the child or the child continues to receive any support from such parents.⁴⁵
- Retain for at least six years from the issuance of the inquiry letter, copies of all inquiry letters and completed certification forms returned and file in the adoption subsidy payment record.

⁴⁴ Federal Title IV-E funding may be reinstated and retroactive, if a satisfactory reply is received after the claiming change.

⁴⁵ See *Social Security Act §473, 09-OCFS-ADM-11* and/or the *Education and Support Requirements* section for details

Responsible District/County

Federal and State law require that Title IV-E Adoption Assistance or State Adoption Subsidy and medical subsidy payments continue for a child who moves to another county, another state, the District of Columbia or the Commonwealth of Puerto Rico. Therefore, close coordination among the states is essential to prevent interruption of payments and/or medical coverage for children receiving Title IV-E Adoption Assistance or the State Adoption Subsidy who are either placed for adoption across state lines or who move out of the original adoption assistance state.

The Interstate Compact on Adoption and Medical Assistance (ICAMA) Process⁴⁶

The Interstate Compact on Adoption and Medical Assistance (ICAMA) is responsible for providing specific guidelines to states when arranging benefits and services for children who are receiving Title IV-E Adoption Assistance or the State Adoption Subsidy and moving into or out of New York State. ICAMA coordinates health care in interstate adoption cases. New York State is an associate member of ICAMA. As a result, New York State children receiving NYS Adoption Subsidy and eligible for Medical Assistance while residing in another state will be eligible to receive Title XIX Medicaid in ICAMA member status states that have agreed to provide reciprocity.

State that originates the adoption assistance = sending state

State of residence = receiving state

Child receives NYS Adoption Subsidy (Title IV-E Adoption Assistance, the State Adoption Subsidy and Medical Assistance) - Moving out of NYS

NYS Local District = sending state

Upon notification of the family's plan to relocate to another state (via NYSAS/adoptive parents), fully complete two copies of the following:

- *Notice of Medicaid Eligibility /Case Activation (ICAMA 6.01)*
- *Report of Change in Child/Family Status (ICAMA 6.03)*
- Copy of the *Adoption Assistance Agreement* (State Adoption Subsidy Agreement) for each child listed on the **6.01**
- Copy of the birth certificate⁴⁷ for each child listed on the **6.01**

Forward this completed packet to:

NYS ICAMA Compact Administrator
New York State Office of Children and Family Services
52 Washington Street Room 323 North Building
Rensselaer, New York 12144

Provide the adoptive family with a copy of the following:

- *Notice of Medicaid Eligibility /Case Activation (ICAMA 6.01)*
- *Notice of Action Taken (ICAMA 6.02)*
- *Adoption Assistance Agreement*

⁴⁶ See 08-OCFS-INF-06 for details

⁴⁷ See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

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The NYS ICAMA Compact Administrator will:

- Review the packet
- Forward the packet to the receiving state's ICAMA Compact Administrator

The other state = receiving state will:

- Facilitate the issuance of Medicaid based on the documentation provided – the scope of benefits and the age up to which the adopted child will remain eligible for Medicaid coverage are contingent upon the Medicaid provisions in the receiving state.
- Notify the NYS ICAMA Compact Administrator of child's Medicaid status via the *Report of Change in Child/Family Status (ICAMA 6.03)*

The NYS ICAMA Compact Administrator will:

- Forward a copy of the **6.03** to the appropriate NYS Local District

Child receives a State-funded Adoption Subsidy and Medical Assistance from the other State - Moving into NYS

Other state = sending state

Completes and forwards the ICAMA completed packet to the NYS ICAMA Compact Administrator.

The NYS ICAMA Compact Administrator will:

- Forward copies of the ICAMA packet to the NYS Local District's (address listed on the form **6.01**) Adoption Supervisor and Medicaid Supervisor. The packet will include:
 - *Notice of Medicaid Eligibility/Case Activation (ICAMA 6.01)*
 - Copy of the *Adoption Assistance Agreement (State Adoption Subsidy Agreement)* for each child listed on the **6.01**
 - Birth certificate⁴⁸ for incoming ICAMA package

NYS Local District = receiving state will:

- Verify that the adopted child is receiving either Title IV-E Adoption Assistance or a state-funded adoption subsidy from the sending state
- Authorize Medicaid benefits and the appropriate Medicaid card(s) based on the documentation provided (follow hierarchy determination rules used for children eligible for the State Adoption Subsidy)
 - Adoptive parents must complete a Medicaid application with sufficient information to establish a case (i.e. name, date of birth, social security number and address)
 - Consider the adopted child as a recipient (for purposes of verifying and documenting citizenship and immigration status)
 - Adopted children receiving state-funded adoption assistance from their sending state should comply with providing documentation of citizenship and immigration status within a reasonable time
 - It is advisable to obtain this documentation for the Medicaid case file established in NYS (establishes documented verification and an audit trail)
- Notify the NYS ICAMA Compact Administrator of the child's Medicaid status via the **6.03** form

⁴⁸ See *10-OCFS-INF-10* for details regarding birth certificates from Puerto Rico.

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- Renew these cases annually without a financial determination (unless Adoption Services informs the Medicaid Program that the adopted child's status has changed)

 **Please note:** For children residing in NYS with an adoption assistance agreement from another state, if the adopted child loses Title IV-E eligibility for Adoption Assistance or eligibility for Medicaid under COBRA, then a full Medicaid eligibility determination must be done based on the individual's current circumstances. Continuous coverage provisions apply.

Other Situations requiring Completion and Submission of the Report of Change in Child/Family Status (ICAMA 6.03)

The NYS Local District will complete and submit the **ICAMA 6.03** to the NYS ICAMA Administrator in the following circumstances:

- Opening or closing the child's Medicaid case
- Address change and/or
- Change in the child's adoption status

See the charts in the following pages for the jurisdictional provisions of Medical Assistance and the State Medical Subsidy for children who are adopted.

Adoption: Medicaid/State Medical Subsidy

Title IV-E Adoption Assistance					
Situation		Medical Implications		WMS Implications	MA Individual Categorical Code (ICC)
Adoption Assistance Maintenance*	Family moves out of county of origin	County of origin continues to be responsible for Medicaid		Medicaid non-services case type 20	74
	Family moves out of NYS	New state is responsible for Medicaid – See ICAMA rules		Close case	N/A
	Family moves into NYS	NYS county of residence is responsible for Medicaid – See ICAMA rules		Medicaid non-services case type 20	34
Adopted child comes into foster care	Child placed in foster care in same county that pays subsidy	County of origin: <ul style="list-style-type: none"> • Closes Medicaid for Adoption Subsidy case • Conducts Title IV-E Foster Care eligibility determination • Opens Medicaid/Foster Care case 		Medicaid non-services case type 13 or 20	78
	Child placed in foster care in different county from the one that pays subsidy	County of origin: <ul style="list-style-type: none"> • Closes Medicaid for Adoption Subsidy case New County: <ul style="list-style-type: none"> • Conducts Title IV-E Foster Care eligibility determination • Opens Medicaid/Foster Care case 			
	Adopted child comes from out-of-state	NYS county with legal custody of the child: <ul style="list-style-type: none"> • Conducts Title IV-E Foster Care eligibility determination • Opens Medicaid/Foster Care case 			34

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Non-Title IV-E: State Adoption Subsidy				
Situation		Medical Implications	WMS Implications	MA Individual Categorical Code (ICC)
Adoption Subsidy Maintenance*	Family moves out of county of origin	County of origin continues to be responsible for Medicaid/Medical Subsidy (depending on medical coverage provided in Subsidy Agreement)	Medicaid non-services case type 20 or Services POS line 77	33
	Family moves out of NYS	County of origin remains responsible for Medicaid– see ICAMA rules/State Medical Subsidy(depending on medical coverage provided in Subsidy Agreement)		
	Family moves into NYS	New York State is responsible for health care- see ICAMA rules		75
Adopted child comes into foster care	Child placed in foster care in same county that pays subsidy	<ul style="list-style-type: none"> • Close Medicaid for Adoption Subsidy case or suspend Medical Subsidy • Conduct Title IV-E Foster Care eligibility determination • Open Medicaid/Foster Care case 	Medicaid non-services case type 13 or 20	77
	Child placed in foster care in different county from the one that pays subsidy	<p>County of origin:</p> <ul style="list-style-type: none"> • Closes Medicaid for Adoption Subsidy case or suspends Medical Subsidy <p>New County:</p> <ul style="list-style-type: none"> • Conducts Title IV-E Foster Care eligibility determination • Opens Medicaid/Foster Care case 		
	Adopted child comes from out-of-state	<p>NYS county with legal custody of the child:</p> <ul style="list-style-type: none"> • Conducts Title IV-E Foster Care eligibility determination • Opens Medicaid/Foster Care case 		75

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Non-recurring Adoption Expenses

The Title IV-E Adoption Assistance program also authorizes federal matching funds for states to pay one-time adoption expenses for parents of adopted children with special needs (regardless of AFDC or SSI eligibility). To be eligible, the child must meet the federal definition of a child with special needs.⁴⁹

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

The *Adoption Subsidy and Non-recurring Nonrecurring Adoption Expenses Agreement (LDSS-4623A* rev. 9/09) is a written agreement between the adoptive parents and the social services district with final approval from OCFS,⁵⁰ specifying the nature and amount of assistance to be provided. The case information section of the agreement must be completed, and the agreement must be signed by all parties before the adoption finalization. The *Non-recurring Adoption Expenses Reimbursement Form (LDSS-4623D)* is used by the social services district for recording all nonrecurring expenses being claimed and must be completed and submitted to the district along with the necessary documentation of the expenses within two years of the adoption finalization. The local district is responsible for the review, approval and reimbursement of non-recurring adoption expenses.

The case must be open/active on WMS so that appropriate program and administrative costs are authorized and reimbursed by the federal government. Authorize purchase of service (POS) code type "1L" for all non-recurring adoption expenses.

⁴⁹ See 18 NYCRR 421.24(d)(2)

⁵⁰ For agreements where the child is in the legal custody of a voluntary authorized agency, only OCFS approval is required.