DHS Policy
Oregon Department of Human Services

Children, Adults and Families

Prior Version

Policy Title:	Title IV-E Foster Care and General Assistance – OAR				
Policy Number:	I-E.6.1 413-100-0000 thru 0320			Effective Date:	9/02/08

Approved By: *on file* Date Approved:

Policy | Forms, etc. | Definitions | References | Contact | History

Reference(s):

- Title IV-E-FC
- FS, ADC Manual II
- Child Welfare Policy I-B.3.2.1, Substitute Care Placement
- PL 96-272, Adoption Assistance and the Child Welfare Act of 1980
- ASFA - Adoption and Safe Families Act
- PRWORA - The Personal Responsibility and Work Opportunity
- Reconciliation Act of 1996

Form(s) that apply:

- CF 183, "Verification of Title IV-E Financial (AFDC)"
- CF 184, "Title IV-E-FC Eligibility Determination Worksheet"
- CF 263, "Notice of Action"
- CF 263A, "Notice of Denial"
- CF 499, "Voluntary Placement Agreement"
- CF 890, "IIS Codes for Eligibility"
- CF 1005 A "Voluntary Custody Agreement"

Rules:

413-100-0000
Purpose

The purpose of these rules (OAR 413-100-0000 to 413-100-0320) is to set forth the Department's process and criteria for making Title IV-E Foster Care eligibility determinations for children in substitute care for whom the Department has placement and care responsibility.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0010
Eligibility Requirements

Prior Version

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E Foster Care maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E foster care and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services (the Department). The Department acts as the applicant for the child and provides Title IV-E foster care payments to foster parents on behalf of eligible children, consistent with --

(a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and

(b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0020
Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0320:

(1) "AFDC No-Adult Standard": The standard applicable to AFDC households that do not include an adult in the grant.

(2) "AFDC": The Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(3) "Amnesty Alien": Any person with proper INS documentation who, because of a well-founded fear of persecution due to race, religion, or political opinion, fled his or her homeland. The term "refugee" applies to all refugees and asylees with proper INS documentation, served by the Department under the Refugee Resettlement Program.

(4) "Assistance Unit": A group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(5) "Certified Foster Home": For Title IV-E purposes under these rules (OAR 413-100-0000 to 413-100-0320), a foster home that the Department has certified and includes a relative foster home.

(6) "Child Support": Any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(7) "Citizen or Alien Status": The status of being a U.S. citizen or alien who is a qualified alien or unqualified alien, as defined by section 431 of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as amended by The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and The Balanced Budget Act of 1997.

(8) "Constructive Removal": The non-physical, paper, or legal removal of a child who is not living with a "specified relative" when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. Constructive removal is described further in OAR 413-100-0135(3)(b).

(9) "Countable Income": The amount of available income, including earned and unearned income not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(10) "Court Order Date": The date a court of competent jurisdiction issues a court order that gives the Department responsibility for the child's placement and care.

(11) "Date a Child is Considered to have Entered Foster Care": The earlier of the following:

(a) The date that the court found the child to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(12) "Department": The Department of Human Services.

(13) "Earned Income": All legal, reportable income resulting from an individual's employment or self-employment.

(14) "Eligibility Month":

(a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her specified relative; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

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(15) "Entitlement": Any benefit to which an individual has a valid claim, or would have a valid claim upon application, including one related to past employment or service, pension, compensation payment, allotment allowance insurance payment, interest in an estate or fund, or of a similar nature.

(16) "Family": For purposes of determining Title IV-E Foster Care eligibility under these rules, the parent or parents, stepparent, or relative or relatives from whom the child is removed.

(17) "First cousin once-removed": A child of a first cousin.

(18) "Foster Home": As defined in ORS 418.625(3), means any home maintained by a person who has under the care of the person in such home any child under the age of 21 years unattended by the child's parent or guardian, for the purpose of providing such child with care, food, and lodging, but does not include any foster home under the direct supervision of a private child-caring agency or institution certified by the Department, any home under the direct supervision of a custodial parent for the purpose of providing respite care, or any developmental disability child foster home.

(19) "Foster Care": 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(20) "Incapacity": A physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the child and may be expected to last a period of at least 30 days.

(21) "Indian Child": A child verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

(22) "Initiation of Court Action": The date that the court was petitioned or legal action was taken that resulted in the removal of the child from the specified relative.

(23) "Minor Child": Any person under the age of 18 who has not been emancipated by a court of law, married, or a member of the Armed Forces of the United States.

(24) "Need": Using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or family.

(25) "Non-Indian Child": Any child not verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

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(26) "Nunc Pro Tunc Orders": Under Oregon law, a nunc pro tunc order is an order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(27) "Parent": Under the AFDC rules in effect on July 16, 1996, "parent" means the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the child, and no one else claims to be the father, he shall be treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.

(c) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent, the adoptive parent, has given up care, control, and supervision of the child.

(28) "Payment Standard or Needs Standard": The amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the "Payment or Need Standard" in effect on July 16, 1996.

(29) "Personal Property": Everything that a person owns that is not real property, including liquid assets.

(30) "Physical Removal": The removal of a child that occurs when a child is placed in substitute care, who was living with the "specified relative" when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(31) "Real Property": Land, buildings, and whatever is erected on or affixed to the land or buildings and taxed as real property.

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(32) "Relieved of Temporary Commitment": The court ends the Department's responsibility for the child's placement and care.

(33) "Removal Home": The home from which the child was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

(34) "Resource": Any personal or real property that is or can be made available to meet the need of the assistance unit the Department does not specifically exclude from consideration.

(35) "Shelter In-Kind": Payment by an agency, other than the Department, or someone other than the client, for the client's rent and utility bills at no cost to the client and the client provides no service in exchange for the payment.

(36) "Specified Relative":

(a) A "parent" as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;

(d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(37) "Standards of Assistance": The consolidated standards for payment specified in OAR 461-155-0030 that were in effect on July 16, 1996. These standards are used to determine income eligibility for AFDC.

(38) "Temporarily Unreimbursable": The status of a child who would otherwise be Title IV-E eligible but for the child's being temporarily placed out of a foster care setting.

(39) "Unearned Income": All income that does not directly result from an individual's employment or self-employment.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.625

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413-100-0030
Certification Documentation Requirements for Title IV-E Foster Care

Prior Version

(1) Documentation of certification is required in the case file or certification file.

(2) The following documentation is required for an out-of-state foster home placement:

(a) Verification that the out-of-state foster home or child caring agency is certified, licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a Criminal History check was completed and approved.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0060
Title IV-E Reimbursable Placements and Payments

(1) To be Title IV-E eligible, a child must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E Foster Care definition of a reimbursable placement. They are:

(a) A certified unrelated foster family home;

(b) A certified relative foster home;

(c) A private, non-medical group home or crisis residential center licensed by the state;

(d) A public non-medical group home or child-care facility with a licensed capacity of less than 26 beds; or

(e) A certified pre-adoptive home.

(3) Foster care maintenance payments are made only on behalf of an eligible child who is:

(a) In the foster family home of an individual, whether the payments are made to such individual, a public or private child placement, or a child-care agency; or

(b) In a child care institution, whether the payments are made to such institution, a public or private child placement, or a child-care agency.

(4) Reimbursable Payments. Title IV-E foster care maintenance payments for a child in foster care may cover:

(a) The cost of food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation; and,

(b) In the case of institutional care, the reasonable costs of administration and operation of such institution as are necessarily required to provide the items noted above.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

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413-100-0070
Application for Title IV-E Foster Care

(1) A child in substitute care for whom the Department has responsibility for placement and care will be referred for a Title IV-E eligibility determination.

(2) Under no circumstances may Title IV-E Foster Care be authorized on behalf of any child prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A child may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0080
Effective Eligibility Date

The effective date of a child's Title IV-E eligibility occurs when all of the other eligibility criteria prescribed in OAR 413-100-0020 to 413-100-0320 are met and one of the following applies:

(1) The date of the child's placement if the Department is responsible for the child's placement and care.

(2) The date of placement in a relative certified home when the relative has received a TANF non-needy (NNR) grant and repayment is authorized to the TANF agency.

(3) The first of the month in which the "reasonable efforts" ruling is made when the court delays making the finding, as long as Reasonable Efforts to Prevent the Placement is obtained within 60 days of placement.

(4) The effective certification date of the relative foster parent's home when a TANF non-needy (NNR) grant has not been received.

(5) The effective certification date when the Department's Financial Services unit has reimbursed the Department's Office of Self Sufficiency Programs for the relative foster parent's TANF non-needy (NNR) grant retroactive to the certification date.

(6) Effective the date the child is no longer in receipt of SSI (if applicable).

(7) The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" if a child in his or her parental home, while the Department retained responsibility for the child's placement and care, is returned to substitute care.

(8) The first of the month in which the Department obtains responsibility for the child's placement and care if the child enters substitute care prior to the Department's obtaining placement and care responsibility.

(9) The first of the month in which the voluntary placement agreement or voluntary custody agreement is signed, if placement occurs prior to the signing of the agreement.

(10) The first of the month in which a non-certified home becomes certified, if the child was placed in the home at that time.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0090
Retroactive Eligibility

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A nunc pro tunc order is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E foster care eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV-E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pended for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

Prior Version

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding was previously made as long as it is modified within 60 days of placement.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: 409.010, 418.005

Prior Version

413-100-0110
Effective Closure Date

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

(1) The end of the month in which eligibility ended.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the child's eligibility became known to the Department after the fact.

(3) The date that the custodial or non-custodial parent or the parents establish residency in the home in which their child resides if one or both are providing caretaking responsibility for the child.

(4) The date the foster home's certificate of approval expires or is revoked.

(5) On the 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the child was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the child's transfer to Developmental Disability Services (DDS).

(7) The date of the child's placement in a facility considered to be outside the scope of "foster care."

(8) The date that the Department ceases having responsibility for the placement and care of the child.

(9) The end of the month in which an 18 year old young adult graduates or obtains a GED; or the end of the last month in which he or she is 17 years of age if he or she will not graduate by age 19.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0120
Verification of Eligibility

(1) If the child is determined not to be Title IV-E eligible when the child enters substitute care based on the information available at the time of the initial determination, the child is not eligible for Title IV-E foster care maintenance payments for the entire duration of that substitute care episode.

(2) To establish Title IV-E Foster Care eligibility, the Department must verify the eligibility factors with acceptable documentary evidence. The Department determines which eligibility factors require verification and the types of acceptable verification. The Department may:

(a) Decide to require verification of additional eligibility factors; and

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(3) Verification is required for the following:

(a) Residency;

(b) U.S. Citizenship status;

(c) Referral to the Division of Child Support;

(d) Age;

(e) Removal from the home of the specified relative;

(f) Judicial language in Court Orders;

(g) Countable family or child income and benefits;

(h) Parental deprivation; and

(i) Family or child resources.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0130
Eligibility Determinations - "AFDC Linkage"

(1) The Department reconstructs the facts of the removal home to determine if the child, in the eligibility month, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

(2) AFDC Relatedness. The child meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

Prior Version

(a) The child --

(A) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month; and

(B) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

(b) The child ---

(A) Lived with the specified relative within six months of removal; and

(B) Would have been eligible to receive AFDC under the rules in effect on July 16, 1996, during the eligibility month, had an application been made.

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0135
Eligibility Requirements - Living with a "Specified Relative" and "Removal"

(1) Specified Relative Requirements. To meet Title IV-E eligibility requirements the child, at the time of the child's removal from his or her home, must have been living with and removed from the same "specified relative", as defined in OAR 413-100-0020.

(2) Removal Requirements. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:

(a) A voluntary custody agreement or voluntary placement agreement, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home; or

(b) A judicial order that requires the child's "physical" or "constructive" removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(3) Removal Home Requirements. Effective June 9, 2006, for Title IV-E eligibility purposes, the child's "removal home" must meet requirements of one of the following subsections:

Prior Version

(a) Physical Removal. The home of a parent or specified relative when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the child from the custody of the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(b) Constructive Removal.

(A) The home of a parent or specified relative if the child is living in the home of an interim caretaker (relative or non-relative) within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent or specified relative and gives the Department responsibility for the placement and care of the child; or

(B) The home of a parent when the parent and the child both live in a specified relative's home; the parent leaves the home, and the child continues to live in the home of the specified relative within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent and gives the Department responsibility for the placement and care of the child.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.625

413-100-0150
Parental Deprivation

(1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.

(2) Deprivation of parental support in relation to the home from which the child is removed exists when:

(a) Death of a parent. Either parent of a child is deceased.

(b) Continued absence of the parent from the home. There is a Continued Absence of one or both parents when:

(A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child;

(B) There is evidence of continued absence of over 30 days duration; or

(C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.

Prior Version

(c) Physical or mental incapacity. Incapacity is documented as parental deprivation in a one-parent or two-parent household as follows:

(A) One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for OASDI or SSI based on disability or blindness;

(B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

(C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.

(d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if they each meet one of the following criteria:

(A) Is working less than 100 hours per month; or

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months; and

(ii) Is expected to work less than 100 hours in the following month. (Title IV-A)

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0160
AFDC Eligibility - Financial Need

(1) A child removed from the home of a specified relative who was not receiving AFDC requires the Department to reconstruct the child's situation to determine whether under rules in effect on July 16, 1996 the child was AFDC eligible.

(2) If the child is physically removed from a parent's home:

(a) The Department considers the income and resources of the parent, parents, or stepparent from whom the child was removed in the eligibility month;

(b) Determines the countable gross earned income of all the family members in the assistance unit including the $90 standard earned income deduction;

(c) Determines the countable unearned income of all the family members in the assistance unit including the $50 child support deduction; and

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(d) Excludes SSI or a combination of SSI and SSA benefits as countable income. The Department excludes the parent or child receiving SSI or a combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

(e) An assistance unit is not eligible when all available countable earned and unearned income (in the eligibility month) exceeds the Adjusted Income Payment or Need Standard under rules in effect on July 16, 1996.

(3) Child is removed from a minor parent who resides in his or her parents' home. If the minor parent's parents live together and the minor parent is under age 18, has never married, and is not legally emancipated, the assets of the parents of a minor parent are deemed as follows:

(a) The resources of the parents of the minor parent are excluded.

(b) The income of the minor parent's parents is deemed available to the minor parent if the minor parent and his or her child live with the minor parent's parents.

(c) The income of the parents of the minor parent is considered available to the minor parent and his or her child even if it is not received by the minor parent and his or her child.

(d) The amount of the deemed income of the parents of the minor parent is determined as follows:

(A) A $90 earned income deduction is allowed.

(B) The needs of the parents of the minor parent and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.

(C) Amounts paid to their legal dependents not living in the household are deducted.

(D) Payments of alimony and child support are deducted.

(E) Any remaining income is countable deemed income to the minor parent.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0170
AFDC Eligibility -- Resources

(1) An assistance unit is not eligible if in the eligibility month all available resources not excluded by Department rules in effect on July 16, 1996 exceed the resource limit.

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(2) The resource limit is $10,000.00. An assistance unit with resources in excess of $10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and Federal and State Income Tax refunds.

(3) If an assistance unit has a licensed motor vehicle, only the first $1,500 of equity value of the vehicle is exempt. Any equity over $1,500 is counted toward the $10,000.00 resource limit.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

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413-100-0180
AFDC Eligibility -- Earned Income of Students

(1) A child under age 18 with a GED or high school diploma, and employed must have his or her earnings considered as income that reduces the maintenance payment. Otherwise Title IV-E Foster Care eligibility must be determined ineligible.

(2) Earned income is not counted for:

(a) A child, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) A child under 18 years of age, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0190
AFDC Eligibility -- Unearned Income

(1) For Title IV-E Foster Care purposes, all unearned income and benefits potentially available to the child must be counted against his or her maintenance payment on a dollar-for-dollar basis. Benefits awarded to the child for which the Department is not yet payee and benefits not readily available to the child must still be counted.

(2) The following are examples of countable unearned income:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Loans;

(d) Cash contributions from any source;

(e) State or private accident or disability payments;

(f) Personal injury settlements;

(g) Lump sum income (except SOIL and IRS recoveries and lump sum support payment applied in the month of receipt to offset prior months Title IV-E maintenance costs);

(h) Child support;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

Prior Version

413-100-0200
AFDC Eligibility - Lump Sum Benefits

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.

(2) A Title IV-E eligible child receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E Foster Care during the months that the calculated lump sum exceeds the foster care maintenance payment.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0210
U.S. Citizenship and Qualified Aliens

A Title IV-E eligible child must be:

(1) A United States citizen; or

(2) A Qualified Alien as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-198, which restricts access to Federal public benefits to qualified aliens. Under PRWORA a qualified alien is --

(a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

(b) An alien granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An alien whose deportation is being withheld under Section 241(b)(3) of the Act;

(f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(h) An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C.1641(c).

(i) An alien disqualified under sections 245A(h) or 210(f) of the Act from receiving aid under the approved Title IV-A State plan.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0220
Residency

There is no minimum time-of residency requirement for a child to be eligible for Title IV-E Foster Care. There need only be the intent that the child reside in the State of Oregon.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

413-100-0230
Age Requirements

(1) At Removal. To be Title IV-E eligible, a child must be under age 18.

(2) At Redetermination. A child must be --

(a) Under age 18; or

(b) Age 18, and regularly attending school or training, and on track to obtain a high school diploma or equivalent.

(A) "Attending" means the student's full-time or half-time school attendance as defined by the school.

(B) Students are considered to be "attending school" for the full month in which they complete or discontinue school or training.

(C) "Regularly attending school" means enrolled in and attending any of the following:

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(i) A school in grade 12 or below;

(ii) GED classes in lieu of high school; or

(iii) A course of vocational or technical training in lieu of high school.

(D) A child is still considered to be "regularly attending school" during a training program, vacation, illness, or family emergency.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 412.144, 418.005

Prior Version

413-100-0240
Judicial Finding Requirements

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, the first court ruling that addresses the removal must include a determination to the effect that continued residence in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 60 days from the date the child was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(3) Reasonable efforts to prevent a child's removal from the home or to reunify the child and family are not required when the Department obtains a judicial finding that such efforts are not required because any of the following subsections apply:

(a) The court has determined that the parent has subjected the child to aggravated circumstances;

(b) The court has determined that the parent has been convicted of:

(A) Murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit such murder or such a voluntary manslaughter;

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding:

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 12 months from the date the child is considered to have entered foster care, to the effect that reasonable efforts have been made for reunification of the family or to achieve the permanency plan. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(b) At least once every 12 months thereafter while the child is in foster care, there must be a judicial determination of reasonable efforts to finalize a permanency plan. The date of the child's last judicial determination determines the date the next judicial determination is due. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if --

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the child.

(b) The court may recommend a placement or name the child's placement in the court order as an endorsement or approval of the Department's placement choice without affecting the child's Title IV-E Foster Care eligibility.

(6) Nunc Pro Tunc Orders. Nunc pro tunc court orders correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

Prior Version

413-100-0250
Voluntary Custody and Voluntary Placement Agreements

(1) When a child is in substitute care, pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, and is Title IV-E eligible, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the child. The judicial finding requirement does not require a court hearing and may be obtained by a letter to the court which results in a court order with the required finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required.

(2) If the finding in section (1) of this rule is not made within the first 180 days, the child is not Title IV-E eligible for the duration of that stay in foster care.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 419B.175, 419B.180, 419B.185

413-100-0260
Voluntary Relinquishments

(1) A child in placement based on a voluntary relinquishment is Title IV-E eligible if:

(a) Within 60 days of placement, the first court order issued has a judicial finding to the effect that remaining in the home would be "contrary to the welfare" of the child or "placement is in the child's best interest"; and

(b) Within 60 days of placement, there is a judicial finding to the effect that "reasonable efforts" have been made to prevent or eliminate the need for removal from the home.

(2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0270
Title IV-E Foster Care Eligibility Redetermination

(1) The Department shall redetermine for each month a child is in substitute care whether the child continues to be Title IV-E eligible at least 12 months from the date the child is considered to have entered foster care.

(2) A child may lose and regain eligibility. The loss of eligibility in any one month does not permanently deprive the child of eligibility in future months.

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(3) For each child who is Title IV-E eligible, except a child who has been placed in relative foster care, redeterminations shall occur at least every year to establish whether the child continues or continued to be eligible on a month-to-month basis. For a child placed in relative foster care, the redetermination will occur every six months.

(4) Title IV-E Specialists will review the following criteria to ensure continued Title IV-E eligibility:

(a) The child's resources must not exceed $10,000 in any month;

(b) The child's countable earned income (see OAR 413-100-0180) and unearned income (per OAR 413-100-0190) including lump sum benefits (see OAR 413-100-0200) must not exceed the cost of the foster care maintenance payment;

(c) The child must meet the age requirement (see OAR 413-100-0230);

(d) The child must continue to be deprived of parental support (see OAR 413-100-0150 and OAR 413-100-0280);

(e) Annual judicial finding requirements (see OAR 413-100-0240); and

(f) The child was placed in a certified foster home.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0280
Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

If the parental rights of the parent of a Title IV-E eligible child are relinquished or terminated, the Department must redetermine the deprivation factor to confirm that the conditions at the time of removal from the home continued to exist in the month that the relinquishment or termination occurs. The redetermination is required for the child to remain Title IV-E eligible. If deprivation is confirmed, in further reviews of eligibility, parental deprivation will be based on continued parental absence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0300
Parental Referral to Division of Child Support

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, "Child Support Referrals", OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible child must be referred to the Division of Child Support of the Oregon Department of Justice.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

Prior Version

413-100-0310
Title XIX Medicaid Eligibility

A child found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a child found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005

413-100-0320
Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible child in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) The Title IV-E Eligibility Specialist will notify and provide documentation of Title IV-E eligibility to the foster or adoptive parents residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid coverage and their need to apply for Title XIX Medicaid under COBRA for the Title IV-E eligible child in their state of residence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: 409.010, 418.005

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Policy History

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