DHS Policy
Oregon Department of Human Services

Children, Adults and Families

Prior Version

Policy Title:	Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility – **Temporary** OAR				
Policy Number:	I-E.6.1 413-100-0000 thru 0345			Effective Date:	6/30/11 thru 12/27/11

Approved By: *on file* Date Approved: 6-15-11

Reference(s):

- Applicable Child Age Requirements
- ASFA - Adoption and Safe Families Act
- Child Welfare Policy I-B.3.2.1, Substitute Care Placement
- FS, ADC Manual II
- PL 96-272, Adoption Assistance and the Child Welfare Act of 1980
- PL 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008
- PRWORA - The Personal Responsibility and Work Opportunity
- Reconciliation Act of 1996
- Title IV-E-FC

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"
- CF 969c "Adoption Assistance Application"
- CF 973 "Title IV-E Guardianship Assistance Program (GAP) Determination and Title XIX Determination"

Rules:

413-100-0000
Purpose

The purpose of these rules, OAR 413-100-0000 to 413-100-0345, is to describe the Department's responsibilities and criteria for making Title IV-E eligibility determinations for children in substitute care for whom the Department has placement and care responsibility and Adoption Assistance and Guardianship Assistance Title IV-E eligibility determinations. These determinations are used to ensure proper federal reimbursement.

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

Prior Version

413-100-0010
Eligibility Requirements

(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 of Human Services 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.

(3) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) was signed into law on October 7, 2008 enacting further federal requirements to help youth in *foster care* by promoting permanent families for children and young adults through relative guardianship and adoption and improving education and health care. Additionally --

(a) Effective April 1, 2010, the Act delinks Title IV-E eligibility redeterminations from AFDC eligibility; and

(b) Effective October 1, 2010, the Act extends federal support for young adults in *foster care*, guardianship, and adoption through 20 years of age.

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

Prior Version

413-100-0020
Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

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

(2) "Assistance unit" means a group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(3) "Child" means a person under 18 years of age.

(4) "Child care institution" means a private child care institution, or a public child care institution which accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing or approval. "Child care institution" does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(5) "Child support" means 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.

(6) "Constructive removal" means 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).

(7) "Countable income" means 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.

(8) "Date the child is considered to have entered foster care" means 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.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.

(11) "Eligibility month" means --

(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.

(12) "Family" means 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.

(13) "First cousin once-removed" means a *child* of a first cousin.

(14) "Foster care" means 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.

(15) "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. This definition 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 as defined in ORS 443.830.

(16) "Incapacity" means 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.

(17) "Indian child" means any unmarried person who is under age 18 and is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological *child* of a member of an Indian tribe.

Prior Version

(18) "Need" means, 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*.

(19) "Nunc pro tunc order" means, under Oregon law, a court order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(20) "Parent" means, under the AFDC rules in effect on July 16, 1996, 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 is treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21, available from Vital Statistics) 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*, who is the adoptive *parent*, has given up care, control, and supervision of the *child*.

(21) "Payment or need standard" means 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.

(22) "Physical removal" means 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.

(23) "Removal home" means 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).

Prior Version

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

(25) "Specified relative" means:

(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.

(26) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.

(27) "Young adult" means a person aged 18 through 20 years.

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

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

(1) Documentation of a certificate or license is required in the case file, certification file, or licensing 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

Prior Version

(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 409.010, 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.050, 418.005

Prior Version

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

(1) To be Title IV-E eligible and reimbursable, a *child* or *young adult* must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are four types of out-of-home placements that meet the Title IV-E *foster care* definition of a reimbursable placement. They are:

(a) The home of a certified non-relative foster parent;

(b) The home of a certified relative caregiver;

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

(d) A public non-medical group home or child caring agency with a licensed capacity of less than 26 beds.

(3) *Foster care* maintenance payments are made only on behalf of an eligible *child* or *young adult* 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 caring 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 caring agency.

(4) Reimbursable Payments. Title IV-E *foster care* maintenance payments for a *child* or *young adult* in *foster care* may cover expenses listed in the following subsections:

(a) The cost for and the cost of providing food, clothing, shelter, daily supervision, school supplies, a *child* or young adult's personal incidentals, liability insurance with respect to the *child* or *young adult*, and reasonable travel to the *child* or young adult's home for visitation with *family* or other caretakers, and reasonable travel for the *child* to remain in the school in which the *child* is enrolled at the time of placement. Local travel associated with providing the items listed in this subsection also is an allowable expense.

(b) For a *child care institution*, the Title IV-E *foster care* maintenance payment must include reimbursement for the institution's reasonable administrative and operating expenses required to provide the items described in subsection (a) of this section.

Prior Version

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

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

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

(2) Under no circumstances may Title IV-E *foster care* eligibility or reimbursement be authorized on behalf of any *child* or *young adult* prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A *child* or *young adult* may not be Title IV-E eligible based on presumed eligibility.

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

413-100-0080
Effective Eligibility Date

The effective date of a *child* or young adult's Title IV-E eligibility is the date 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* or young adult's placement in substitute care, if the Department is responsible for the *child* or young adult's placement and care.

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

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

(4) When the Department has retained responsibility for placement and care and the *child* or *young adult* is returning to *foster care* from a trial home visit, the placement date or the date that the *child* or *young adult* meets all Title IV-E eligibility criteria after a Title IV-E redetermination of eligibility under OAR 413-100-0270 is completed.

(5) When the Department has retained responsibility for placement and care and the court has retained wardship, and the *child* or *young adult* returning to *foster care* is not considered to have been on a trial home visit, the date the Department completes a new Title IV-E eligibility determination under these rules, OAR 413-100-0000 to 413-100-0345.

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

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

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

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

(10) The first of the month in which a non-certified home becomes certified, if the *child* or *young adult* was placed in the home at that time.

(11) When applicable, the date the *child* or *young adult* is no longer receiving SSI benefits.

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

Prior Version

(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

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding previously was made as long as the modification is made within 60 days of placement and a transcript of the court hearing is provided that documents the judicial finding was made in the original court hearing.

Prior Version

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

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 ceased to exist.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the *child* or young adult'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 the *child* or *young adult* resides if one or both parents are providing caretaking responsibility for the *child* or *young adult*.

(4) The date the foster *parent* or relative caregiver's certificate of approval or a child caring agency's license expires or is revoked.

(5) 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* or *young adult* was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the *child* or young adult's placement in a facility that is considered to be outside the scope of *foster care*.

(7) The date that the Department ceases to have responsibility for the placement and care of the *child* or *young adult*.

(8) The date the *child* is emancipated.

(9) The date the *young adult* no longer meets the age requirements for Title IV-E eligibility under OAR 413-100-0230.

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

Prior Version

413-100-0120
Verification of Eligibility

(1) When the Department determines a *child* or *young adult* is ineligible for Title IV-E *foster care*, based on the information available at the time of the initial determination, the *child* or *young adult* is not eligible for Title IV-E *foster care* maintenance payments for the entire duration of that substitute care episode.

(2) To verify Title IV-E *foster care* eligibility, the Department must obtain acceptable documentary evidence to support certain eligibility factors. The Department determines which eligibility factors require verification and the types of acceptable documentary evidence. 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 eligibility factors:

(a) Residency;

(b) U.S. Citizenship status;

(c) Age;

(d) Removal from the home of the *specified relative*;

(e) Judicial language in Court Orders;

(f) Countable *family*, *child*, or *young adult* income and benefits;

(g) Parental deprivation;

(h) *Family*, *child*, or *young adult* resources; and

(i) The *child* or *young adult* is placed in a certified foster or relative caregiver's home or a licensed child caring agency.

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

Prior Version

413-100-0130
Eligibility Determinations - AFDC Linkage

(1) For an initial Title IV-E eligibility determination, the Department reconstructs the facts of the *removal home* to determine if the *child* or *young adult*, 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* or *young adult* meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

(a) The *child* ---

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

(B) 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* had an application been made; and

(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.

(b) The *young adult* ---

(A) Lived with the *specified relative* within six months of removal prior to age 18;

(B) 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*, had an application been made; and

(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 409.010, 409.050, 412.144, 418.005
Stats. Implemented: ORS 409.010, 409.050, 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* or *young adult*, 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 for a *child* age 17 or younger. 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 Requirements for a *young adult* age 18, 19 or 20. To meet Title IV-E eligibility requirements, the young adult's removal from the home must occur pursuant to:

(a) Court ordered removal prior to age 18. 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*. No new court ordered removal is required at the age of 18 or older to remain eligible for Title IV-E *foster care* maintenance payments, as long as the *young adult* remains in continuous *foster care*.

(b) A voluntary placement agreement prior to age 18, signed by a *parent* or *specified relative*, that results in the "physical" or "constructive" removal of the *child* from the home. No new voluntary placement agreement is required after the *young adult* attains the age of 18 for Title IV-E purposes as long as the *young adult* remains in continuous *foster care*.

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

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

(b) Constructive Removal. The Department considers a child's removal a *constructive removal*:

Prior Version

(A) When the *child* is living in the home of an interim caretaker (relative or non-relative) at the time of removal but the *child* lived with a *parent* or *specified relative* within the six months prior to the judicial order, voluntary custody agreement, or voluntary placement agreement which resulted in the *constructive removal* of the *child* from the *parent* or *specified relative* and gave the Department responsibility for the placement and care of the *child*; or

(B) When the *parent* or *specified relative* and the *child* live in another relative's home, the Department considers the child's removal a *constructive removal* from the *parent* or *specified relative* if:

(i) The *parent* or *specified relative* moves out of the home within the six months prior to the removal;

(ii) The *child* remains in the relative's home; and

(iii) Within six months of the date the *parent* or *specified relative* left the relative's home there is a judicial order or voluntary custody or placement agreement that results in the removal of the *child* from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.

Prior Version

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

(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 Old age, Survivors, and Disability Insurance (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 each *parent* meets 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.

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

(A) 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, when applicable;

Prior Version

(C) Determines the countable *unearned income* of all the *family* members in the *assistance unit* including the $50 *child support* deduction, when applicable; and

(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.

(b) 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) If a *child* is removed from a minor *parent* who resides in his or her parents' home, 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 the minor *parent* are deemed as follows:

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

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

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

(A) When applicable, 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 the legal dependents of the parents of the minor *parent* 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*.

(4) If a *child* is removed, physically or constructively, from the home of a *specified relative* who is not a *parent* of the *child*, the Department ---

(a) Considers the *child* as a household of one;

(b) Determines the countable earned and *unearned income* and resources available to the *child*;

Prior Version

(c) Disregards the income and resources of each caretaker *relative*;

(d) Includes the *child* placed in substitute care in the household of one's *assistance unit*;

(e) Denies Title IV-E eligibility when all available *countable income* and *unearned income* (in the *eligibility month*) exceeds the No Adult *payment or need standard* for the ADC-BAS and Medically Needy programs under rules in effect on July 16, 1996.

Prior Version

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

(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 409.010, 409.050, 412.144, 418.005
Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

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

(1) A *child* or *young adult* with a GED or high school diploma and employed must have his or her earnings considered as income that reduces the maintenance payment, even if they are attending a secondary education program. Otherwise, the *child* or *young adult* is not eligible for Title IV-E *foster care* eligibility.

(2) Effective April 1, 2010, section (1) of this rule no longer applies to Title IV-E eligibility redeterminations.

(3) *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*, 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 409.010, 409.050, 412.144, 418.005
Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

Prior Version

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.

(2) Benefits awarded to the *child* for which the Department is not yet payee and benefits not readily available to the *child* still must be counted.

(3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

(4) The following are examples of countable *unearned income*:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Cash contributions from any source;

(d) State or private accident or disability payments;

(e) Personal injury settlements;

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

(g) Effective April 1, 2010, subsection (f) of this section no longer applies to Title IV-E eligibility redeterminations.

(h) *Child support*;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

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

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.

(3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

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

Prior Version

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

A Title IV-E eligible *child* or *young adult* must be:

(1) A United States citizen; or

(2) A qualified alien is defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA a qualified alien's access to federal public benefits is restricted for five years beginning on the date of the alien's entry into the United States, unless subsection (b), (c), or (d) of this section applies. 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 243(h) 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) If the *child* is a qualified alien who is placed with a qualified alien or United States citizen, the date the *child* entered the United States is irrelevant and the five-year restriction on federal public benefits does not apply; or

(h) If the *child* is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the *child* would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the *child* is in one of the excepted groups identified at section 403(b).

Prior Version

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

413-100-0230
Age Requirements

To be Title IV-E eligible, at the time of removal an individual must be --

(1) A *child* 17 years of age or younger.

(2) At redetermination --

(a) A *child*, 17 years of age or younger;

(b) A *young adult*, 18 years of age, *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) A student is considered to be *attending* school for the full month in which the student completes or discontinues school or training.

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

(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 considered to be *regularly attending school* during a training program, vacation, illness, or *family* emergency.

(c) A *young adult*, 18 through 20 years of age, who is --

(A) Completing his or her secondary education or a program leading to an equivalent credential;

(B) Enrolled in an institution that provides post-secondary or vocational education;

(C) Participating in a program or activity designed to promote, or remove barriers to employment;

(D) Employed for at least 80 hours per month; or

(E) Determined unable to perform any of the activities in paragraphs (A) to (D) of this section due to a physical condition, mental disability or physical disability documented by medical evidence and regularly updated information in the case plan of the *young adult*.

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

413-100-0240
Judicial Finding Requirements for Title IV-E Eligibility

(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 a *child* is not Title IV-E eligible for the duration of the substitute care episode, unless the first court ruling that addresses the removal includes 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*.

(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 *child* is not Title IV-E eligible for the duration of the substitute care episode, unless a judicial finding is 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*.

Prior Version

(3) When a court determines that reasonable efforts to return the *child* home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the *child* and *family* are not required. 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 one or more of the following subsections applies:

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

(b) As described in ORS 419B.340, 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 an offense described in subparagraphs (A) or (B) of this subsection;

(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 unless a judicial finding is 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, the *child* is temporarily ineligible for Title IV-E *foster care*. The *child* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.

(b) At least once every 12 months thereafter while the *child* or *young adult* is in *foster care*, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the *child* or *young adult* is temporarily ineligible for Title IV-E *foster care*. The date of the *child* or young adult's last judicial determination determines the date the next judicial determination is due. The *child* or *young adult* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.

(5) Judicial orders concerning placements.

Prior Version

(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* or *young adult*.

(b) If the court recommends a placement or names the *child* or young adult's placement in the court order as an endorsement or approval of the Department's placement choice the *child* or young adult's Title IV-E *foster care* eligibility is not affected.

(6) Nunc Pro Tunc Orders. The Department considers a *nunc pro tunc order* to 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.

(7) A court order that references state or tribal law to substantiate judicial determinations is not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal may be ordered only after reasonable efforts have been made.

Stat. Auth.: ORS 409.010, 409.050, 418.005, 419B.340
Stats. Implemented: ORS 409.010, 409.050, 418.005, 419B.340

413-100-0250
Voluntary Custody and Voluntary Placement Agreements

(1) In accordance with ORS 412.084, when a *child* is in substitute care pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, 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*. This best interest finding also is a requirement for continuation of the child's Title IV-E eligibility for more than 180 days. This judicial finding may be obtained in a court hearing or by a letter to the court that results in an ex parte court order containing the best interest finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required for Title IV-E eligibility.

(2) If the finding in section (1) of this rule is not made within the first 180 days after the placement, the *child* or *young adult* becomes ineligible for Title IV-E 181 days after the placement and is not Title IV-E eligible for the duration of the substitute care episode.

Stat. Auth.: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185
Stats. Implemented: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185

Prior Version

413-100-0260
Voluntary Relinquishments

Prior Version

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

(a) Within 60 days of placement, or within six months of a voluntary relinquishment to a private adoption agency, 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 Redeterminations

(1) The Department must redetermine, for each month a *child* or *young adult* is in substitute care, whether the *child* or *young adult* continues to be Title IV-E eligible. This redetermination must be completed no later than 12 months from the *date the child is considered to have entered foster care*, and every 12 months thereafter for the duration of the *child* or young adult's substitute care episode. Eligibility may resume the first of the month in which all eligibility criteria are met.

(2) A *child* or *young adult* may lose and regain eligibility. The loss of eligibility in any one month does not permanently end the *child* or young adult's eligibility in future months.

(3) Title IV-E Specialists must redetermine the *child* or young adult's circumstances to ensure the *child* or *young adult* continues to meet all of the following criteria for continued Title IV-E eligibility:

(a) The *child* or *young adult* must continue to meet the age requirements under OAR 413-100-0230;

(b) The judicial finding requirements under OAR 413-100-0240 continue to be met; and

(c) The *child* or *young adult* was placed in a fully certified foster or relative caregiver home or with a licensed child caring agency during the redetermination period.

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

Prior Version

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

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) delinked Title IV-E eligibility redeterminations from AFDC eligibility, effective April 1, 2010. A redetermination of deprivation at relinquishment or termination of parental rights is no longer required.

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

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 409.010, 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.050, 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) For a Title IV-E *foster care* eligible *child* being placed outside of Oregon, the Title IV-E Specialist must notify and provide the following documentation to the foster or adoptive parents:

(a) Confirmation of the child's Title IV-E eligibility;

(b) Notification of the discontinuance of the child's Oregon Medicaid coverage; and

(c) A letter stating the child's eligibility under COBRA for applying for Title XIX Medicaid coverage in the child's new state of residence.

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

Prior Version

413-100-0335
Adoption Assistance Title IV-E Eligibility Determination

(1) To be eligible for Title IV-E adoption assistance through age 17, the *child* must:

(a) Meet the age and education requirements specified in OAR 413-100-0230; and

(b) Meet one of the *applicable child* eligibility criteria as specified in section (2) of this rule; or

(c) Meet one of the non-*applicable child* eligibility criteria specified in section (4) of this rule.

(d) Effective October 1, 2011, to be eligible for an extension of Title IV-E adoption assistance through age 20, the *young adult* must also be part of an adoption assistance agreement that was made effective after the *child* reached 16 years of age, but before the *child* attained 18 years of age.

(2) For the purposes of this rule, effective October 1, 2009, an "applicable child", as defined in section 473(e) of the Social Security Act, is a *child* who meets the requirements of at least one of the following subsections:

(a) The child's oldest age attained in the current federal fiscal year (October 1 through September 30) meets the *applicable child* age requirements;

(A) The *applicable child* age requirements are set forth in the following document, which by this reference, is incorporated into this rule; Applicable Child - Age Requirements.

(B) The Department maintains this document on the Department's Child Welfare policy website at http://www.dhs.state.or.us/policy/childwelfare/cross_index.htm. A printed copy of this document may be obtained by contacting the Department of Human Services, Children, Adults and Families, Federal Compliance Unit, Attn: Title IV-E Federal Compliance Specialist, 500 Summer Street NE, Salem, Oregon 97301.

(b) The *child* has been in *foster care* under the responsibility of the Title IV-E agency for any 60 consecutive month period prior to finalization of the adoption; or

(c) The *child* is a sibling of another *child* the Department has determined is an *applicable child* and both children are placed in the same adoption arrangement.

(d) A *child* found to be an *applicable child* under subsections (2)(a) to (c) of this section must meet the *applicable child* eligibility requirements, inclusive of the special needs criteria, described in section 473(a)(2)(A)(ii) of the Social Security Act to be eligible for Title IV-E adoption assistance.

(3) An *applicable child* is not eligible for Title IV-E adoption assistance when:

(a) The *child* is not a citizen or resident of the United States; and

(b) The *child* was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(c) A *child* that is not a citizen or resident of the United States, and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for Title IV-E adoption assistance for any subsequent adoptions if the initial adoption fails and the *child* is placed into *foster care*. For the subsequent adoption, the *child* will have to meet the Title IV-E eligibility requirements under this rule.

(4) A *child* who does not meet the *applicable child* criteria in section (1) must qualify under one of the following subsections:

(a) The child's eligibility for Title IV-E *foster care* was established at the time of removal.

(b) The *child* meets all eligibility requirements for Supplemental Security Income (SSI) benefits.

(c) The child's payments in a certified *family* home or private child caring agency are covered by the *foster care* maintenance payment being made for his or her minor *parent*.

(d) The child's eligibility for an adoption assistance payment was established for a prior adoption and the *child* is now available for adoption because of one of the following:

Prior Version

(A) The prior adoption has been dissolved and the parental rights of each adoptive *parent* have been terminated or relinquished; or

(B) Each adoptive *parent* of the *child* has died.

(5) Private Agency Adoptions: To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to a public or private nonprofit agency must meet all of the following criteria:

(a) The *child* meets the eligibility criteria for Supplemental Security Income (SSI);

(b) The *child* is in a subsequent adoption, if he or she received Title IV-E adoption assistance in a previous adoption;

(c) The *child* must meet the Title IV-E AFDC eligibility requirements (as described in OAR 413-100-0130 through 413-100-0230); and

(d) The *child* must meet Judicial Removal requirements, as described below:

(A) The *child* must be voluntarily relinquished either to the State agency (or another public agency [including Tribes] with whom the State has a Title IV-E agreement), or to a private, nonprofit agency; and

(B) Within six months of the date the *child* last lived with a *specified relative*, a petition must be filed with the court to remove the *child* from the home; and

(C) The court must make a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

(e) The *child* must meet the special needs criteria (as described in OAR 413-130-0020).

(f) Failure to meet any of the requirements listed above will result in a denial of Title IV-E adoption assistance eligibility.

(6) Independent Adoptions. To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to an individual must meet the following criteria:

(a) The *child* meets the eligibility criteria for Supplemental Security Income (SSI); or

(b) The *child* is in a subsequent adoption and he or she received Title IV-E adoption assistance in a previous adoption.

(c) The *child* must meet the special needs criteria (as described in OAR 413-130-0020).

(7) Eligibility after Removal from an Adoption Assistance Placement.

Prior Version

(a) Finalized Adoption: When a *child* in a finalized adoption is placed in substitute care:

(A) The local office must open a new case for the *child*; and

(B) The Title IV-E Specialist must perform an eligibility determination for Title IV-E *foster care*, based on the removal from the adoptive parents.

(b) Non-finalized Adoption: When a *child* in a non-finalized adoptive placement is placed in substitute care:

(A) The local office must open a substitute care service for the *child*; and

(B) The Title IV-E Specialist must perform an eligibility redetermination for Title IV-E *foster care*, based on the original removal of the *child*.

(8) Eligibility for Title IV-E adoption assistance may not be presumed for a *child* placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination (CF 969c) based on the original removal of the *child*.

Stat. Auth.: ORS 418.005, 418.330 - 418.340
Stats. Implemented: ORS 418.005, 418.330 - 418.340

413-100-0345
Guardianship Assistance Eligibility

(1) To be eligible for Title IV-E guardianship assistance, the prospective guardian must meet the definition of a relative, as defined in Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", under OAR 413-070-0063 (10).

(2) To be eligible for Title IV-E guardianship assistance through age 17, the *child* must:

(a) Meet the age and education requirements specified in OAR 413-100-0230; and

(b) Be a United States citizen or a qualified alien (see OAR 413-100-0210) and meet the requirements of at least one of the following subsections:

(A) The *child* must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the *child* and the *child* must be or have been eligible to receive a Title IV-E *foster care* maintenance payment while residing in the home of the prospective relative guardian who met all certification requirements for any six consecutive months;

Prior Version

(B) The *child* is in receipt of Supplemental Security Income (SSI) benefits and the *child* would be or would have been eligible to receive Title IV-E *foster care* maintenance payments for six consecutive months in the home of the prospective relative guardian; or

(C) The *child* is a sibling of another Title IV-E guardianship assistance eligible *child* who is or will be living with the same prospective relative guardian. The requirement for six consecutive months of eligibility for *foster care* maintenance payments under subsection (2)(a) of this section is waived for the sibling of the Title IV-E guardianship assistance eligible *child*.

(3) To be eligible for an extension of Title IV-E guardianship assistance through age 20, the *young adult* also must be part of a guardianship assistance agreement that was made effective after the *child* reached 16 years of age, but before the *child* attained 18 years of age.

(4) Eligibility for Title IV-E adoption assistance may not be presumed for a *child* placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination based on the original removal of the *child*.

(5) Removal from a guardianship placement (including guardianships established through or outside of the Guardianship Assistance program).

(a) Removal from a guardianship placement is considered a new removal for the Title IV-E Foster Care program, and an initial Title IV-E *foster care* eligibility determination is required when a *child* or *young adult* is removed from a guardianship placement:

(A) On the basis of a voluntary custody agreement or voluntary placement agreement, or

(B) As the result of a judicial determination that continuation in the home would be contrary to the welfare of the *child*.

(b) The Title IV-E *foster care* eligibility determination will be based on removal of the *child* or *young adult* from the guardian.

(c) If the *child* or *young adult* was removed from a guardianship assistance placement, the *child* or young adult's eligibility for Title IV-E guardianship assistance will resume if the *child* or *young adult* is later placed back with the same relative guardian.

(d) If the *child* or *young adult* is later placed with a different relative guardian, the Department must complete a new Title IV-E guardianship eligibility determination.

(6) Title IV-E Guardianship Assistance Eligibility Denial Notices and the Right to a Hearing

Prior Version

(a) Title IV-E Guardianship Assistance Denial Notices

(A) A "Denial of Title IV-E Guardianship Assistance Eligibility" form must be completed at the time of the child's Title IV-E eligibility denial for guardianship assistance.

(B) The "Denial of Title IV-E Guardianship Assistance Eligibility" form must be sent by certified mail (return receipt requested) to the prospective relative guardian when the child's eligibility for Title IV-E guardianship assistance is denied.

(b) Rights for a Hearing

(A) When the "Denial of Title IV-E Guardianship Assistance Eligibility" form is mailed to the prospective relative guardian, information will be included about the prospective relative guardian's right to a hearing.

(B) If the prospective relative guardian does not agree with the Title IV-E eligibility decision that has been made, the prospective relative guardian has the right to request a contested case hearing under ORS 183, as described in Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

Contact(s):

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Policy History

- 12/29/95 *(not available electronically)*
- 03/01/97 *(not available electronically)*
- 02/06/98
- 08/11/00 thru 02/06/01
- 02/07/01
- 01/01/02
- 09/02/03 thru 02/09/04
- 02/10/04
- 02/07/07 thru 07/31/07
- 08/01/07
- 06/28/08
- 09/02/08
- 12/16/09 thru 06/14/10
- 06/15/10
- 06/30/11

Prior Version