	Department of Human Services **CHILDREN, ADULTS and FAMILIES** **CLIENT SERVICES MANUAL I** **ISSUED BY:** Office of Program Performance & Reporting **EFFECTIVE DATE:** *Temporary* Rule **EFFECTIVE:** September 2, 2003 **EXPIRES:** February 28, 2004	**NUMBER**: I-E.6.1 **OAR:** 413-100-0000 / 0360 **SECTION:** E. Substitute Care **SUBSECTION:** 6. Funding Eligibility
SUBJECT: 1. Title IV-E-FC and General Assistance - *Temporary* OAR		

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Responsible Manager: Administrator
Office of Program
Performance & Reporting

Approval:_____
Administrator
Office of Program
Performance & Reporting

Interpretation: Manager,
Federal Reporting

REFERENCES: Title IV-E-FC
FS, ADC Manual II
OAR 413-040-0100 thru 0160, CAF Policy I-B.3.2.1
PL 96-272, Adoption Assistance and the Child Welfare Act of 1980
Form CF 183, "Verification of Title IV-E Financial (AFDC)"
Form CF 184, "Title IV-E-FC Eligibility Determination Worksheet"
Form CF 263, "Notice of Action"
Form CF 263A, "Notice of Denial"
Form CF 499, "Voluntary Placement Agreement"
Form CF 890, "IIS Codes for Eligibility"
Form CF 1005 “Voluntary Custody Agreement”
ASFA - Adoption and Safe Families Act
PRWORA - The Personal Responsibility and Work Opportunity Reconciliation Act of 1996

PURPOSE

413-100-0000 The purpose of these rules is to set forth the procedures and criteria the agency will use to make Title IV-E-FC federal financial participation eligibility determinations for children in substitute care and in the care and custody of the Department of Human Services.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

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ELIGIBILITY REQUIREMENTS

413-100-0010 (1) Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, became effective June 17, 1980. It amended Title IV of the Social Security Act to establish a new Part E, which provides for federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. ASFA (The Adoption and Safe Families Act) was signed by President Clinton on 11/19/1997, which further defined federal regulations necessary to claim these funds and to ensure permanency for children. Title IV-E eligible children are categorically eligible for Medicaid.

(2) The Administration for Children and Families is the federal agency that sets regulations and monitors the Title IV-E foster care and adoption assistance programs. Title IV-E is administered by the Department of Human Services. The agency acts as an applicant for the child and provides Title IV-E foster care payments to providers on behalf of eligible children within:

(a) The guidelines established by state and/or federal legislation for the program;

(b) The established financial standards of the AFDC program in effect 7/16/1996;

(c) Certain state and/or federal regulations and statutory requirements as defined in DHS rules 461-101-0010 through 461-195-0660 and 461-02-0920 in effect 7/16/1996, for AFDC recipients which also apply to the Title IV-E-FC eligible foster child who derives his/her eligibility from the AFDC program.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

DEFINITIONS

413-100-0020 (1) "AFDC No-Adult Standard": The standard applicable to AFDC households that do not have an adult in the grant.

(2) "AFDC": Aid to Families with Dependent Children Program as of 7/16/1996 and excluding changes implemented by the Oregon Options Waiver.

(3) "DHS": Adult and Family Services.

(4) "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

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her homeland. The term "refugee" is applied to all refugees and asylees with proper INS documentation served by DHS under the Refugee Resettlement Program.

(5) "Assistance Unit": Unit of individuals whose needs, income, and resources are considered in determining eligibility and the grant amount.

(6) "Certified Foster Home": For Title IV-E eligibility purposes under these rules, certified refers to a foster home that is not provisionally certified.

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

(8) "Citizen/Alien Status": A U.S. citizen or alien lawfully admitted under provisions of the Immigration and Nationality Act as a paroled or conditional entrant; or an alien lawfully admitted for permanent residence or who is otherwise permanently and lawfully residing in the United States. A qualified alien or unqualified as defined by The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

(9) "Constructive Removal": The removal that occurs when the child is not living with the "Specified Relative" at the time of the voluntary placement/custody agreement or initiation of court proceedings.

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

(11) "Court Order Date": Date of court order or temporary court order giving Department of Human Services responsibility for placement and care, including orders of detention.

(12) "Date a Child is Considered to have Entered Foster Care": The earlier of the following: (1) The date court found the child within the jurisdiction of the court under ORS 419B.100 or (2) 60 days from the date of removal.

(13) "Earned Income": Income produced as a result of services which the client performed.

(14) "Eligibility Month":

(a) The month court action for placement was initiated resulting in the removal of the child from the home (either "Constructive removal" or "physical removal") of his/her specified relative;

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(b) The month a documented request for a judicial review of a child in DHS's continuous custody is made;

(c) The month the judicial finding resulting in a court order for DHS custody was made when no documentation of a request for a judicial review is evident; or

(d) The month a voluntary custody/placement agreement is signed.

(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-FC eligibility under these rules, family means the parent(s), stepparent(s), or relative(s) from whom the child is removed.

(17) "Foster Home": As defined in ORS 418.625(2), a home is one maintained by a person who has under his/her care a child unattended by the child's parent and not related by blood or marriage.

(18) "Foster Care": 24 hour substitute care for children placed away from their parents or guardians and for whom the State agency 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 State 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.

(19) "Grant": The actual assistance payment for the payment month.

(20) "Incapacity": A condition that causes unemployability or impairs the individual's ability to perform normal functions either on a medical or psychiatric basis.

(21) "Initiation of Court Action": Date court was petitioned or legal action was taken which resulted in the removal of the child from the specified relative.

(22) "Minor Child": A minor child is considered to be any person under the age of 18 who has not been emancipated by a court of law, married, or a member of the

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Armed Forces of the United States.

(23) "Need": The monetary amount by which the requirements of DHS standards of an individual or family exceed all income and resources available to them.

(24) "Nunc Pro Tunc Orders": Under Oregon law, the role of a nunc pro tunc order is to supply an omission in the record of action actually taken, but omitted through inadvertence or mistake.

(25) "Parent": For IV-E eligibility purposes under these rules "parent" means the birth or legal (step or adoptive) mother or father of a person, and includes:

(a) If the mother lives with a male and either she or the male claims that he is the father of the child/unborn, and no one else claims to be the father, he shall be treated as the father even if paternity has not been legally established for purposes of determining IV-E-FC eligibility under these rules.

(b) A stepparent relationship exists if:

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

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

(c) An adoptive parent; and

(d) The birth parent of an adopted child if:

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

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

(26) "Payment Standard/Needs Standard": The amount set by DHS as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the “Payment/Need Standard” in effect 7/16/1996.

(27) "Personal Property": Everything owned which is not real property including liquid asset.

(28) “Physical Removal” : The removal that occurs when a child is placed in substitute care and was living with the “specified relative” at time of the voluntary

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placement/custody agreement or initiation of court proceedings.

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

(30) "Reasonable Efforts to Finalize a Permanency Plan":

(a) DHS has made reasonable efforts to make it possible for the child to safely return home or

(b) DHS has made reasonable efforts to place the child in a timely manner in accordance with the plan and to complete steps necessary to finalize the permanent plan.

(31) "Release of Temporary Commitment": The Department of Human Services is relieved of responsibility by the court for placement and care of the child.

(32) "Removal Home": The home of the "specified relative" that the child was removed from as a result of a judicial finding or voluntary custody/placement agreement.

(33) "Resource": Any personal or real property which is or can be made available to meet the need of the assistance unit and is not specifically excluded from consideration by DHS.

(34) "Shelter In-Kind": Shelter paid for by an agency, other than DHS, 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.

(35) "Specified Relative:

(a) Birth, adoptive, or stepparent, as defined in 413-100-0020 (25);

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

(c) Aunts, uncles, first cousins, and first cousins once removed;

(d) Persons who legally adopt a child and any people related to the child through the adoption who meet the degree of relationship specified in (b) of this section.

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(e) Stepmother, stepfather, stepbrother, or stepsister, even after marriage is terminated by death or divorce; or

(f) Spouse of anyone listed above, even if the marriage has been terminated by death or divorce.

(36) "Standards of Assistance": The consolidated standards for payment specified in Adult and Family Service's OAR 461-155-0030. These standards are used to determine income eligibility for AFDC.

(37) "Title IV-E Program": The Title IV-E program of the Social Security Act provides federal payments for foster care and adoption assistance. The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was enacted on June 27, 1980, and established the new Title IV-E program, replacing Oregon's Title IV-A foster care program on June 1, 1981. The Adoption and Safe Families Act enacted on November 17, 1997 further defined the federal regulations for use of these funds.

(38) "Unearned Income": All income which does not directly result from an individual's employment or self-employment.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

CERTIFICATION DOCUMENTATION REQUIREMENTS FOR TITLE IV-E

413-100-0030 (1) Children found eligible for Title IV-E-FC must be placed in a certified foster home. Documentation in the case file or certification file of certification is required. Title IV-E may be claimed for the period of time between the date a prospective foster family home satisfies all certification requirements and the date the actual certificate is issued, which shall not exceed 60 days. The following documentation is required for children in out-of-state placements:

(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 licensing 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 <u>and a copy of the verification that a Criminal History check was completed and approved</u>.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

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PLACEMENT IN RELATIVE HOMES

413-100-0040 (1) Relative Payments for Non-Indian Children. Foster care maintenance payments to relatives are restricted by ORS 418.625. Children in relative foster care must be Title IV-E eligible to receive a foster care maintenance payment with the exception of an Indian child.

(2) Relative Payments for Indian Children. A Tribal enrollment committee must verify that the child is enrolled as a member of a federally recognized tribe or eligible for enrollment. State general fund foster care payments may be authorized for these Indian children in relative foster care but found ineligible for Title IV-E.

(3) Relative Placements. With the exception of Indian children, children in the following homes must be found Title IV-E eligible for the relative to receive foster care maintenance payments:

(a) The home of any blood or half blood relative or adoptive relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great. Children with one common birth parent are half-blood relatives;

(b) The home of siblings, aunts, uncles, first cousins, first cousins once removed, nephew, or niece, and grandparents;

(c) The home of a relative, as defined in (a) of this rule, of adoptive parents.

(4) Relative Foster Care Provider Rights. The relative foster care provider has a right to:

(a) Information about the Title IV-E foster care maintenance program administered by the agency, including the eligibility requirements of the program and the required verification methods;

(b) Apply for Title IV-E foster care maintenance payments for the financial support of the related child in their care;

(c) Receive these benefits without discrimination when the related child in their care meets the eligibility requirement of the Title IV-E foster care program and the home meets foster care certification requirements.

(5) Request for Foster Care Maintenance Payment. The relative foster care provider may contact the agency with a request for Title IV-E payments. Their request

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for Title IV-E foster care maintenance payments may be in the form of a phone call, visit or written request by the relative provider or another person acting on the relative provider's behalf. This request starts the application process. The “date of relative provider’s request” is the date the verbal request is made to or the written request is received by the agency. The date of request will be recorded by the Eligibility Specialist on the narrative and used to establish:

(a) The date for starting the application processing time frame; and

(b) The earliest date for which Title IV-E eligibility may be established.

(6) Eligibility Determination Time Lines. Eligibility for Title IV-E-FC will be determined within 45 days from the date of request for benefits. The limit may be extended for any of the following reasons:

(a) Information needed to determine eligibility is expected to be received after the 45 day limit; or

(b) Other circumstances exist that are not within the control of the client or the ~~branch~~ local DHS office, and this delays the eligibility decision past the 45 day limit.

(7) Notice of Closing of Relative Payment. The eligibility worker will send written notification to the relative provider at least ten days prior to the effective date of termination of payments when a child is no longer Title IV-E-FC eligible.

(8) Notice of Denial of Relative Payment. The eligibility worker will send written notification of denial of benefits to the relative(s) requesting foster care maintenance payments when a child placed in their home does not meet the requirements of the Title IV-E-FC program.

(9) If relatives do not agree with the closure or denial of Title IV-E foster care maintenance payments and medical coverage, the relative may request a conference with local DHS staff. At the conference, branch staff will:

(a) Discuss the decision;

(b) Explain the specific reasons for the action; and

(c) Allow the relatives to explain why they feel the action should not be taken.

(10) Relatives also have the right to ask for an Administrative Hearing before an

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impartial person designated as an authority on the federal eligibility requirements of the Title IV-E Foster Care and medical programs. The purpose of such a hearing is to determine if the local DHS office's Title IV-E foster care eligibility determination decision is in compliance with the guidelines established by state and/or federal legislation for the program. If the hearing decision is that Title IV-E foster care maintenance payments and medical coverage have been wrongfully denied or terminated, corrective payment action will be taken.

(11) Whether relatives request a conference with local DHS staff, or an Administrative Hearing, witnesses may testify on their behalf and legal counsel or other representatives may be present. The Department of Human Services will not pay the expenses of witnesses attending or of an attorney.

(12) Whenever a client or the client's authorized representative clearly expresses a desire to have a hearing, orally or in writing, the client has requested a hearing. The Eligibility Specialist will document the hearing request date on the narrative.

(13) Relatives may make a written or oral request for an Administrative Hearing to either their local DHS office or the Central Office. Requests for an Administrative Hearing must be made within 45 days of the date of notice of closure or denial of Title IV-E foster care payments and medical coverage.

Statutory Authority: ORS 418.005
Stats. Implemented: ORS 418.625

PLACEMENT IN UNRELATED HOMES

413-100-0050 (1) Unrelated Home. Certification of the home is required when children are placed in the home of a person formerly related by blood or marriage. The following homes meet DHS's definition of an unrelated home. General fund foster care payments may be made to the following certified homes:

(a) The home of a person formerly related to the child by marriage when:

(A) The relationship by marriage was terminated by death or divorce;

(B) The child was not adopted by a step-parent prior to the dissolution of the marriage or death of the natural or adoptive parent. A child's relationship to his/her step-parent ends 30 days after the entry of a divorce decree.

(b) The home of a person no longer related to the child by blood, with the exception of the birth parent. Blood relationships end when the child is legally adopted by another family. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all the prior blood relationships of

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siblings, unless also adopted by the same adoptive parents, and extended family members.

(c) The home of a putative paternal relative. A paternal relationship by blood does not exist when:

(A) There is no court order establishing paternity or no evidence of such an order having been submitted to Vital Statistics; or,

(B) The father's name is not on the birth certificate. (Only the birth certificate issued by Vital Statistics will provide proof of paternity having been established by the court. The hospital certificate giving the father's name is not sufficient evidence of paternity.); or

(C) The putative father signed relinquishment papers without ever having signed a stipulation of paternity. (The Division of Child Support does not recognize the signing of a stipulation of paternity without the mother agreeing that the man is indeed the father. The HS 21 form jointly signed by the mother and putative father is a legal document which establishes paternity and allows the father's name to be added to the birth certificate.)

(2) Non IV-E Reimbursable Placements. Children in the following relative homes are ineligible for IV-E foster care maintenance payments:

(a) The home of a birth parent even after adoption or termination of parental rights;

(b) The home of the specified relative from whose legal custody the child was removed;

(c) The home of a relative when the child's parent resides under the same roof and the parent is providing caretaking responsibilities for the child;

(d) The home of a step-parent when the birth parent and step-parent are separated, but not divorced;

(e) The home of a relative when the relative has legal custody;

(f) The home of a relative that is not fully certified.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

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REIMBURSABLE PLACEMENTS AND PAYMENTS

413-100-0060 (1) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E 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 which has a licensed capacity of less than 26 beds; or

(e) A pre-adoptive placement.

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

(a) The cost of (and the cost of providing) 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.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

APPLICATION FOR TITLE IV-E-FC

413-100-0070 (1) Children in the care and custody of DHS ~~SOSCF~~ and in substitute care will be referred for a Title IV-E-FC eligibility determination.

(2) Under no circumstances is Title IV-E-FC to be authorized on behalf of any child prior to the establishment of eligibility by DHS's eligibility worker. A child cannot be eligible for Title IV-E-FC on the basis of presumed eligibility.

(3) Applications will be submitted to eligibility workers under the following timelines:

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(a) No later than three working days after a child's placement with a relative provider, unless the relative declines foster care payments;

(b) No later than 14 working days after a child's placement in regular paid care. (No application is required when children leave care on or before the seventh working day.)
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

EFFECTIVE ELIGIBILITY DATE

413-100-0080 Eligibility for Title IV-E can be established if all other eligibility criteria, as outlined in OAR 413-100-0020 through 413-100-0360, including the following, is met:

(1) No earlier than the date of placement when the child is in the agency's legal care and custody;

(2) The ~~placement~~ date ~~, when custody is awarded (excluding Saturdays, Sundays and holidays) within 24 hours of placement~~ of placement in a Relative certified home when the Relative has received a TANF non-needy 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 was obtained within 60 days of placement;

(4) ~~The first day of the month following the closure of the TANF Non-Needy Relative (NNR) grant for the relative provider having received TANF maintenance payments;~~

~~**(5)**~~ The effective certification date of the relative provider's home when a TANF (NNR) grant has not been received;

~~**(6)**~~ **(5)** The effective certification date when ~~SOSCF~~ DHS Financial Services has reimbursed DHS the relative provider's TANF (NNR) grant retroactive to the certification date;

~~**(7)**~~ **(6)** Effective the date the child is no longer in receipt of SSI (if applicable);

~~**(8)**~~ **(7)** The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" when a child in their parental home under DHS custody is returned to care;

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(8) The first of the month in which DHS obtains custody when a child is placed in a substitute care placement prior to DHS obtaining custody.

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

(10) The first of the month in which a non-certified home becomes certified as long as the child was placed in the home at that time.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

RETROACTIVE ELIGIBILITY

413-100-0090 (1) A claim for retroactive eligibility may be made on otherwise eligible cases when:

(a) A nunc pro tunc order is issued giving retroactive effect to the judicial findings included in the order only in the case when court transcripts of the court hearing are provided documenting that the findings were made in the original hearing; or

(b) A referral for a Title IV-E FC eligibility determination was not timely.

(2) The effective date of eligibility for cases pended only for judicial finding requirements 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 was previously made as long as it is modified within 60 days of placement.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

PENDED CASES

413-100-0100 Applications with a potential for Title IV-E-FC eligibility with requirements which cannot be met or eligibility factors which cannot be cleared within the month of referral will be pended indefinitely.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

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EFFECTIVE CLOSURE DATE

413-100-0110 The effective date of termination for cases no longer meeting Title IV-E-FC eligibility criteria will be the earlier 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 though information causing the child's ineligibility became known to the agency after the fact;

(3) The day the parent(s), custodial or non-custodial, establishes residency in the home where their child resides if they are providing caretaking responsibility for the child;

(4) The day the foster home license certification is terminated;

(5) On the 181st day of placement for a voluntary placement not approved for continuation by the court within 180 days. The date the child is placed, not the signature date on the agreement, will begin the count;

(6) The day DHS ceases having legal care and custody of the child; or,

(7) The end of the month in which an 18-year-old youth graduates or obtains a GED; or the end of the last month they are 17 years of age if they did not or will not graduate by age 19.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

VERIFICATION OF ELIGIBILITY

413-100-0120 (1) To establish Title IV-E-FC, eligibility factors must be verified with documentary evidence acceptable for verification. The agency decides which eligibility factors require verification and what the acceptable type of verification are. The agency may:

(a) Decide that additional eligibility factors must be verified;

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

(2) Verification is required for the following:

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(a) Residency;

(b) Alien status;

(c) Referral to Division of Child Support;

(d) Age and school attendance;

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

(f) Judicial Language on Court Orders;

(g) Countable family/child income and benefits;

(h) Work status;

(i) Parental deprivation; and

(j) Family/child resources.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

ELIGIBILITY DETERMINATIONS-AFDC LINKAGE

413-100-0130 (1) Title IV-E eligibility is determined on a one-time basis when the child enters substitute care. Children removed from the home of a parent or other specified relative must meet specific eligibility requirements.

(2) The agency will reconstruct the case facts in the eligibility month to determine if the child was receiving AFDC, or might have been eligible for AFDC under rules in effect 7/16/1996, had an application been made.

(a) AFDC Relatedness. The child meets the AFDC relatedness test if one of the following three criteria is met:

(A) The child received AFDC under rules in effect 7/16/1996, in the eligibility month, and the child remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Soc. Sec. Act effective (7-1-96);

(B) The child ~~was~~ would have been eligible to receive AFDC under rules in effect 7/16/1996, in ~~such~~ the eligibility month, if an

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application had been made; or

(C) The child did not live with the AFDC specified relative in ~~such~~ the eligibility month, but did live with such a relative in any of the ~~preceding~~ six months~~;~~ prior to the eligibility month; and would have been eligible to receive AFDC under rules in effect 7/16/1996, during the eligibility month had an application been made.

(D) If the child does not meet the conditions in (2)(a)(A), (B) or (C), the linkage requirement is met if the following applies:

(i) The DHS office has information which establishes the chil resided with any specified relative as defined in 413-100-0020(35) during the eligibility moth or within any of the six months prior to the eligibility month, and that the child would have been eligible for AFDC based on that home, had applicaiton been made while the child was living there.

(ii) This rule 413-100-0130(2)(a)(D) will not become operative unless and until it has been approved by the federal Department of Health and Human Services as part of the Oregon Title IV-E State Plan.

(b) Circumstances defining AFDC eligibility or hypothetical AFDC rules in effect 7/16/1996, for Title IV-E purposes are:

(A) Living with a specified relative;

(B) Deprived of the support of one or both parents;

(C) Financial need;

(D) U.S. citizen or qualified alien; and

(E) Age.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

LIVING WITH A SPECIFIED RELATIVE

413-100-0135(1) To meet the Title IV-E requirements for living with a specified relative prior to removal from the home, one of the following situations must apply:

(a) The child was living with a specified relative and was, under rules in effect on 7/16/1996, AFDC eligible in that home in the eligibility month ~~of the~~

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~~voluntary custody/ placement agreement or initiation of court proceedings~~;

(b) The child had been living with a specified relative within six months of the eligibility ~~month of the voluntary custody/placement agreement or the initiation of court proceedings~~, and the child would have been, under rules in effect on 7/16/1996, AFDC eligible in that month ~~if she/he had still been living in that home~~; or

(c) The child was hospitalized under parental custody and released into DHS custody for placement purposes. Such children will be considered to have lived with the parent regardless of the length of the child's hospitalization.

(2) Removal Requirements. The Title IV-E eligibility rules require that the child be removed from the home of a specified relative as defined in OAR 413-100-0020. For the purposes of meeting Title IV-E requirements, a removal from the home must occur pursuant to:

(a) A voluntary custody/placement agreement entered into by a parent/specified relative which leads to a "physical" or "constructive" removal of the child from the home; or

(b) A judicial order for a physical or constructive removal of the child from a parent/specified relative.

(3) For Title IV-E purposes, the following will be designated as "removal homes";

(a) Physical Removal

(A) The home of a parent/specified relative when the court action or voluntary custody/placement agreement results in the removal of the child from the custody of the parent/specified relative ~~while the child was living with the parent/specified relative at the time of initiation of court action~~.

(b) Constructive Removal

(A) The home of a parent when the child was left in the home of a relative and the court action or voluntary custody/placement agreement results in the removal of the child from the custody of the parent. ~~As long as the child has resided with the parent within 6 months of initiation of court action the "constructive removal" requirement is met.~~

(B) The home of a parent when the parent and the child reside in a relative home and the parent leaves the home leaving the child in the

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home of the relative. ~~As long as the child has resided with the parent in the home in the last six months and the court action or voluntary custody/ placement agreement results in the removal of the child from the custody of the parent(s) the "constructive" removal from the parent's home requirement has been made.~~

(C) The specified relative home where the child last resided when the child is living with a non-related caretaker or was homeless. The child must have lived with a specified relative within six months of initiation of court action or signing of a voluntary custody/placement agreement pertaining to the removal from the specified relative. If not, eligibility for Title IV-E is denied based on not meeting the specified relative requirement.

~~**(4)** The child is not considered to be removed from the home of a specified relative and Title IV-E eligibility does not exist when:~~

~~**(a)** Court action was initiated, or a voluntary custody/placement agreement was signed, for purposes of placing a child in DHS custody which results in the removal of the child from the custody of the parent(s) or other specified relative, but the child remains in that home; or~~

~~**(b)** A child previously denied Title IV-E due to court action not resulting in the child's physical or constructive removal from the home of the specified relative is moved from the home of that specified relative foster parent and moved into another placement; or~~

~~**(c)** A child has not lived with a specified relative within 6 months prior to the initiation of court action or signing of a voluntary custody/placement agreement.~~

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

PARENTAL DEPRIVATION

413-100-0150 A continued absence of one or both birth, or adoptive, or stepparent(s) from the home constitutes the basis for deprivation of parental support or care. Deprivation of parental support ~~in relation to the home from which the child is removed~~ exists when:

(1) Either parent is **deceased.**

(2) There is a **Continued Absence** of ~~a~~ <u>one or both</u> parent<u>s</u> as follows:

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(a) The parent(s) is 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; or

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

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

(3) Unemployment or Incapacity. For two-parent families with no absent parent, deprivation of parental support must be based on one of the following;

(a) Incapacity. One parent must meet one of the following criteria:

(A) Receives Supplemental Security Income (SSI);

(B) Receives Social Security Benefits (SSB) based on disability or blindness; or

(C) Is unable to work or has a physical or mental condition that is expected to last at least 30 days and substantially reduces the parent's ability to support or care for the child.

(b) Unemployment or underemployment. Consider a two-parent household unemployed or under employed if they 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. (IV-A)

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

FINANCIAL NEED

413-100-0160 A child removed from the home of a specified relative who was not

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receiving AFDC requires reconstruction of the child's situation to determine whether under rules in effect on 7/16/1996 the child was AFDC eligible. A step-by-step process must be followed.

(1) In cases where a child is physically removed from a parent's home:

(a) First consider the income and resources of the parent(s) or stepparent from whom the child was removed; and

(A) Determine the countable gross earned and unearned income of all the family members in the assistance unit in the eligibility month; and

(B) Include the child placed in substitute care in the assistance unit. Exclude the parent or child receiving SSI or a combination of SSI and other Social Security benefits and exclude them from the number in the household for AFDC calculations.

(b) The next consideration in the income eligibility determination process is to:

(A) Determine the countable gross earned income with disregards and countable unearned income of all the family members in the assistance unit, including the child(ren) who has/have been removed;

(B) An assistance unit is not eligible when all available countable income in the eligibility month, both earned and unearned, exceeds the Adjusted Income Payment/Need Standard under rules in effect 7/16/1996. SSI or a combination of SSI and SSA benefits are excluded as countable income. The first $50 of child support are excluded. The Adjusted Income Payment/Need Standard is used to determine the actual AFDC grant amount;

(C) An assistance unit is not eligible if in the eligibility month all available resources not excluded by DHS Rules in effect 7/16/1996, are over the Resource Limit.

(2) In cases where a child is residing with, or was residing within six months of the eligibility month,~~removed from~~ a specified relative~~'s home~~ which is not a parent:

(a) Consider child as a household of one.
(b) Disregard the income and resources of the caretaker relative(s);

~~**(b)**~~ **(c)** Determine the countable earned and unearned income and resources available to the child;

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~~**(c)**~~ **(d)** Include the child placed in substitute care in the Assistance Unit (Household of one);

~~**(d)**~~ **(e)** Deny Title IV-E eligibility if the child's income is above the No Adult Standards for the ADC Non-Needy Relative Assistance Unit in effect 7/16/1996.

(3) In cases where a child is removed from a minor mother residing in her parent(s)' home.

(a) When a child is removed from a minor mother residing in her parent(s) home, the first step of the eligibility determination process is to:

(A) Exclude the resources of the parent(s) of the minor mother;

(B) Determine the amount of countable income of the parent(s);

(C) Deduct the needs of the parent(s) and their dependents living in the same household at the ADC Adjusted Income Payment/Need Standard in effect 7/16/1996. Do not include the minor mother and her child in the assistance unit;

(D) Allow the standard earned income deduction;

(E) Deduct payments of alimony or child support;

(F) Any remaining income is considered available to the minor parent and their dependent child even if it is not received.

(b) The second step of the eligibility determination process is to:

(A) Determine the minor mother and her child's needs at ADC Adjusted Income Need Standards in effect 7/16/1996;

(B) Deduct the grandparent's income available to the minor parent from the ADC Adjusted Income Need Standard in effect 7/16/1996;

(C) Deny Title IV-E eligibility if the grandparent's income exceeds the Need Standard for the minor parent.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

NEED AND RESOURCES

Prior Version

413-100-0170 (1) The resource limit is $10,000.00. An assistance unit with resources in excess of $10,000.00 is ineligible for AFDC. The most common resources are cash, bank accounts, motor vehicles, and Federal and State Income Tax refunds.

(2) If an ADC 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.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

EARNED INCOME OF STUDENTS

413-100-0180 (1) Children under age 18 with a GED or high school diploma and employed must have their earnings considered as income to reduce the maintenance payment. Otherwise Title IV-E FC payments must be closed.

(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) Children under 18 years of age and at least part-time students (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.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

UNEARNED INCOME

413-100-0190 (1) For Title IV-E-FC purposes, all unearned income/benefits potentially available to the child must be counted against his/her maintenance payment on a dollar-for-dollar basis. Benefits awarded to the child for which the agency is not yet payee or 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;

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(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.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

LUMP SUM BENEFITS

413-100-0200 (1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to DHS must be applied retroactively to reimburse DHS from the date paid placement was initiated. DHS must be the representative payee. This can be accomplished by contacting DHS's Child Benefit Unit.

(2) Title IV-E-FC eligible children receiving lump sum benefits are considered eligible, but unreimbursable for Title IV-E during the months the calculated lump sum exceeds their maintenance payment.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

CITIZENSHIP AND ALIENAGE

413-100-0210 A child eligible to receive Title IV-E-FC 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, restricts access to Federal public benefits to qualified aliens. Under PRWORA a qualified alien is (1) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the “Act”); (2) an alien granted asylum under Section 208 of the Act; (3) a refugee admitted to the United States under section 207 of the Act; (4) an alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year; (5) an

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alien whose deportation is being withheld under Section 241(b)(3) of the Act; (6) an alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980; (7) an alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or (8) 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).

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

RESIDENCY

413-100-0220 There is no minimum residency requirement for Title IV-E-FC eligibility. There need only be the intent for the child to reside in the State of Oregon under DHS's custody.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

AGE REQUIREMENTS

413-100-0230 (1) To qualify for Title IV-E-FC, a child must be:

(a) Under age 18: Children under age 18 do not have to attend school to be eligible for Title IV-E-FC;

(b) Age 18, and regularly attending school or training, and expected to complete training or graduate from school by age 19; or

(c) Enrolled in and attending school if age 18, and graduated by age 19. This must be verified prior to establishing eligibility for Title IV-E-FC. During summer vacation, verification of enrollment for the next school year is required.

(2) Regular school attendance means enrolled in and attending any of the following:

(a) A school in grade 12 or below; or

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

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

(3) The student's full-time or half-time school attendance is defined by the school.

(4) A child will be considered in regular school attendance during a training

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program, vacation, illness, or family emergency.

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

Statutory Authority: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

JUDICIAL FINDING REQUIREMENTS

413-100-0240 (1) Contrary to the Welfare or Best Interest Findings Requirement. To establish IV-E eligibility, a child's removal from the home must have been the result of a judicial finding, unless the child was removed pursuant to a voluntary/custody placement agreement, that continuation of residence in the home would be contrary to the welfare of the child, or that placement would be in the best interests of the child. The Contrary to the Welfare or Best Interest ruling must be made in the first court order that sanctions, even temporarily, the removal of a child from home including pickup orders and detention orders.

(a) Should the court fail to make a "Best Interest" or "Contrary to the Welfare" ruling in the first order issued at the time of the removal, the case will be denied IV-E eligibility for the entire duration of the child's substitute care placement.

(2) Reasonable Efforts Requirement: Effective March 27, 2000 in order to satisfy IV-E eligibility requirements there must be a judicial determination that:

(a) Reasonable efforts were made to prevent a child from being removed from the home OR;

(b) Reasonable efforts are/were not required due to aggravated circumstances to prevent the child's removal from home AND;

(c) Reasonable efforts were made to finalize a permanency plan. The permanency plan may be further identified as:

(A) ~~SOSCF~~ DHS has made reasonable efforts to make it possible for the child to safely return home or

(B) DHS has made reasonable efforts to place the child in a timely manner in accordance with the plan and to complete steps necessary to finalize the permanent plan.

(3) Timelines for Reasonable Efforts Judicial findings:

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(a) Timeline for Judicial Finding of Reasonable Efforts to Prevent Removal from the Home. The judicial finding as to whether reasonable efforts to prevent the child's removal were made, or were not required due to aggravated circumstances, must be made no later than 60 days from the date the child is removed from the home.

(A) If a judicial finding regarding reasonable efforts to prevent removal from the home is not made within the time frame outlines in (a) above the child is not eligible under the Title IV-E foster care maintenance payments program for the duration of that stay in foster care.

(b) Timeline for Judicial Finding of Reasonable Efforts to Finalize a Permanency Plan. Within twelve months of the date the child is considered to have entered foster care and not less frequently than every twelve months thereafter a judicial finding is required that reasonable efforts have been made to finalize the permanency plan whether the plan is to return safely to the family or another permanency plan as outlined in 2(c) above.

(A) If a judicial finding regarding reasonable efforts to finalize a permanency plan is not made within the time frames outlined in (3)(b) above, the child becomes temporarily ineligible under Title IV-E from the end of the twelfth month following the date the child entered foster care. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(B) For subsequent hearings the child becomes ineligible the end of the month in which the twelve month hearing was due when the hearing is not held on time ~~or the end of the month a hearing is held which results in a "no Reasonable Efforts" finding whichever is earlier~~. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(4) Orders Reflecting Recommended Placements. The court order must also:

(a) ~~Recommend, not specify placement with a particular individual; and~~

~~**(b)**~~ Allow the agency to make decisions about a change in the child's placement without further court approval; or

~~**(c)**~~ **(b)** Reflect that the court was advised of, and approved, placement or the agency's intent and case plan to place the child at a future date.

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(5) Nunc Pro Tunc Orders. Nunc pro tunc are acceptable to correct the omission of a "best interest" or "reasonable efforts" ruling in the original removal order only when court transcripts are available to verify that the judicial determination was made at the original removal hearing.

(6) Replacement Orders. Each time a child is removed from the home in the following instances, a new eligibility determination and a judicial review addressing the circumstances of the child's removal is required regardless of whether the child is already committed to DHS's custody:

(a) The case plan was for the child to remain in the parental home; or

(b) New circumstances or issues arose in the parental home causing the child's replacement; or

(c) The child was under agency supervision and removed from the legal care, custody, and placement of a relative; or

(d) A child in a legally finalized adoptive placement is returned to care; or

(e) When a trial home visit extends beyond 6 months unless the court orders a longer trial home visit.

(7) Exceptions to Replacement Orders. Some Title IV-E-FC eligible children, moved while in care or with interruptions or delays in placement, require no new application or new judicial findings for Title IV-E-FC. The eligibility factors of deprivation, limited income and resources available to the child, and school registration for the 18 year old must still exist, to reopen or continue Title IV-E eligibility. Eligibility may be reopened or established effective the day the child enters paid care for the following otherwise eligible children:

(a) Children moved from a paid or non-paid relative placement into family foster care;

(b) Children at home awaiting a residential opening and the court has approved placement in a residential facility;

(c) Children on the run or taken by the parent without DHS ~~SOSCF~~'s permission are located in the home of the parent and immediately returned to care;

(d) Children on the run are located in the home of the parent and are allowed to remain there for a reasonable time, with the worker's consent, until a

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placement becomes available;

(e) Children with interrupted placement resulting from:

(A) A runaway; or

(B) Placement in a detention facility or a juvenile training school; or

(C) Hospitalization.

(f) Children returned to care from the parental home when a trial visit fails. A judicial review is not required for a failed trial visit under the following situations:

(A) DHS custody, Administrative Reviews and Permanency Hearings were continued during the trial visit period; and

(B) At the time the child was sent home, the case record narration or documentation designated that the child's return home was on a trial visit basis; and

(C) The duration of the trial visit was no longer than six months unless the court orders a longer trial home visit.

(g) Children in continuous placement and returned by court order to the care and custody of DHS from the custody of a private agency or substitute care provider.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, PL 105-89 (ASFA)

VOLUNTARY CUSTODY/PLACEMENT AGREEMENTS

413-100-0250 For children in placement based on the signing of a Voluntary Custody Agreement or Voluntary Child Placement Agreement, and Title IV-E-FC eligible DHS must:

(1) Within 180 days of placement, obtain a judicial finding to the effect that such placement is in the best interests of the child. Reasonable efforts findings are not required. The judicial determination requirement may be met without a court hearing, i.e. letter to the court which results in a court order; or otherwise

(2) Close IV-E eligibility if the court has not made a judicial finding within the first 180 days of the voluntary placement. The effective date of closure is the 181st day. Title

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IV-E-FC eligibility cannot be continued or reopened during the duration of the child's placement if this time line is not met.

Statutory Authority: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, ORS 419B.175, 419B.180, 419B.185

VOLUNTARY RELINQUISHMENTS

413-100-0260 (1) Children in placement based on a voluntary relinquishment are eligible for Title IV-E if:

(a) Within 60 days of placement the first court order issued has a judicial finding to the effect that:

(A) 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:

(A) "Reasonable efforts" have been made to prevent or eliminate the need for removal from the home.

(2) Title IV-E eligibility is effective the first of the month of the court order when all other eligibility criteria are met.

Statutory Authority: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, PL 105-89

REVIEWING ELIGIBILITY

413-100-0270 (1) Once Title IV-E eligibility is established, the agency shall determine for each month a child is in care whether the child's cost of care was reimbursable under Title IV-E. A child may lose and regain reimbursability on a frequent basis. The loss of reimbursability in any one month does not permanently deprive the child of reimbursability in future months. For all Title IV-E cases, except relative foster care cases, redeterminations shall occur at least every year to establish whether the reimbursability criteria are met on a month-to-month basis. For relative foster care cases the redeterminations will occur at least every six months. Circumstances defining reimbursability for Title IV-E purposes are:

(a) Resources;

(b) Income;

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(c) Age;

(d) Parental Deprivation ; and

(e) Reasonable Efforts Finding at Permanency Hearing

(2) The child will be found temporarily unreimbursable for Title IV-E when the child's:

(a) Resources exceed $10,000.00 in any month;

(b) Countable earned and unearned income exceeds the cost of the substitute care maintenance payment;

(c) Placement is in a foster home awaiting certification.

(d) Permanency Hearing results in a No Reasonable Efforts Finding in the Court Order.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, PL 105-89

RESOURCES AND INCOME AT REVIEW

413-100-0272 The following factors must be reviewed in determining a child's continued eligibility for Title VI-E.FC:

(1) The child's resources must not exceed $10,000.00 in any month or he/she will be found temporarily unreimbursable for Title IV-E-FC; and

(2) The child's countable earned (per OAR 413-100-0180) and unearned (per OAR 413-100-0190) income, including lump sum benefits (per OAR 413-100-0200) must not exceed the cost of the substitute care maintenance payment or he/she will be found temporarily unreimbursable for Title IV-E-FC.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

AGE AT REVIEW

413-100-0274 To be IV-E eligible, an 18-year-old child must be in school full time or in the equivalent level of vocational or technical training and expected to complete or graduate from such school or training by age 19. If verification of school attendance cannot be obtained, children age 18 will not be eligible. Title IV-E must be closed effective:

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(1) The end of the month in which the 18-year-old youth graduated or obtained a GED; or

(2) The end of the last month they are 17 (i.e. the end of the month prior to their 18th birthday) if they did not or will not graduate by age 19.

Statutory Authority: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

JUDICIAL FINDING OF REASONABLE EFFORTS AT REVIEW

413-100-0276 (1) Timeline for Judicial Finding of Reasonable Efforts to Finalize a Permanency Plan. Within twelve months of the date the child is considered to have entered foster care and every twelve months thereafter a judicial finding is required that reasonable efforts have been made to finalize the permanency plan whether the plan is to return safely to the family or another permanency plan as outlined in 413-100-0240(2)(c).

(a) If a judicial finding regarding reasonable efforts to finalize a permanency plan is not made within the time frames outlines in (1) above, the child becomes temporarily ineligible under Title IV-E from the end of the twelfth month following the date the child entered foster care. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

(b) For subsequent hearings the child becomes ineligible the end of the month in which the twelve month hearing was due when the hearing is not held on time ~~or the end of the month a hearing is held which results in a "no Reasonable Efforts" finding whichever is earlier~~. The child's Title IV-E eligibility remains temporarily unreimbursable until the first of the month in which such a finding is made.

Statutory Authority: ORS 418.005

Stats. Implemented: Title IV-E of the Social Security Act, ORS 419B.175, 419B.180, 419B.185

DEPRIVATION AT RELINQUISHMENT OR TERMINATION OF PARENTAL RIGHTS

413-100-0280 In the month parental rights are terminated or voluntarily relinquished, there must be a determination of parental deprivation in the home from which the child was removed for the child to remain Title IV-E-FC eligible. Thereafter, parental deprivation will not be considered in further reviews of eligibility. Instead, parental deprivation will be based on continued absence.

Statutory Authority: ORS 418.005

Prior Version

Stats. Implemented: Title IV-E of the Social Security Act

PARENTAL DEPRIVATION AT REVIEW

413-100-0290 (1) Existing Deprivation. To maintain Title IV-E reimbursability the child must be considered to be continually deprived of the parental support and care of one or both parents ~~as if they were back in the home from which they were removed~~. However the deprivation need not be the same as at the time of the original application. The following constitutes parental deprivation:

(a) Divorce, marital separation, parental incarceration, parents were never married, death of a parent in single parent households, or absent parents for children removed from a relative home;

(b) Unemployment or incapacity in two-parent households. Because the parents' wages and/or benefits are disregarded at review, reimbursability may continue when:

(A) Both parents are unemployed or incapacitated; or

(B) Both parents are unemployed or each parent is working less than 100 hours per month, or either parent 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 upcoming month.

(C) One parent is incapacitated and the other is employed.

(c) Continued absence of a parent when:

(A) A child is removed from the home of a relative other than the parent; or

(B) Parental rights of the parent(s) from whom removal was based are terminated or relinquished. The status of the parents does not have to be verified after termination or relinquishment. (See OAR 413-100-0280.)

(2) Deprivation Not Existing: Children are not deprived of parental support and care and are not eligible for IV-E reimbursement at review when:

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(a) The parent remarries, if removal was based on that parent, and parental deprivation based on incapacity or unemployment does not exist in the two parent household; or

(b) The parent reconciles with the parent of the child in care and parental deprivation based on incapacity or unemployment does not exist in the two parent household; or

(c) Both parents return to reside in the home of the specified relative from whom the child was legally removed, or on whom AFDC linkage ~~eligibility~~ was based; or

(d) The child returns to the home of a specified relative from whom the child was legally removed, and on whom eligibility was based; or

(e) A parent visits extensively in the relative foster home. Parental visits in the child's home and that of the relative may not exceed four times per week, or a total of 12 hours per week without a visitation plan outlined or reasonable explanation documented in the case and eligibility file.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act, ORS 418.163

PARENTAL REFERRAL TO DIVISION OF CHILD SUPPORT

413-100-0300 Every case involving a Title IV-E-FC eligible child, unless excepted by CAF policy I-E.7.1, must be referred to the Division of Child Support of the Oregon Department of Justice. The referral shall be made via DHS's IIS automated referral process.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

TITLE XIX ELIGIBILITY

413-100-0310. All children found eligible for Title IV-E-FC will be automatically eligible for Title XIX as described in CAF rule OAR 413-100-0430, except that children who are found to be Title IV-E eligible who do not have a social security number will be ineligible for Title XIX until a social security number application has been completed.
Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

COBRA AND TITLE XIX

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413-100-0320 (1) The Consolidated Omnibus Reconciliation Act of 1985, PL 99-272 (COBRA) enacted on April 7, 1986, permits Title IV-E-FC eligible children in paid substitute care or receiving adoption assistance to receive Medicaid (Title XIX coverage) from the state where they reside.

(2) The DHS eligibility worker will notify, and provide documentation of Title IV-E Eligibility to, the foster or adoptive parent(s) residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid Card and need to apply for Medicaid under COBRA for their Title IV-E eligible child in their new state of residence.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

SSI ELIGIBILITY

413-100-0330 Because of Social Security rules and regulations children cannot receive SSI payments and Title IV-E foster care payments concurrently. The agency must make a determination of which funding source is of most financial benefit to the agency. The caseworker must refer the following children to the SSI Unit, Central Office DHS for the determination:

(1) SSI recipients in residential or group care placement;

(2) SSI eligible children receiving a special rate and standard foster care payment under Title IV-E;

(3) SSI eligible children with a cost of care under the SSI rate for consultation on closure of Title IV-E;

(4) SSI eligible children receiving Title XIX Personal Care and Title IV-E foster care payments for consultation on closure of Title IV-E and application for SSI.

(5) SSI eligible children placed in a Relative Foster Home and potentially eligible for a Special Rate Foster Care payment.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

SELF SUFFICIENCY WORKER NOTIFICATION AND CONCURRENT FEDERAL PAYMENT

413-100-0340 Self sufficiency workers must be notified by the eligibility specialist or caseworker when children are receiving TANF and are placed in foster care. Title IV-E-FC relative payments cannot be authorized for otherwise eligible children when the

Prior Version

relatives are receiving an TANF/NNR grant for the children as the relatives would incur an overpayment with their cash assistance. Title IV-E relative foster care payments may begin when the child is removed from the ADC grant.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

MINOR PARENTS AND CHILDREN

413-100-0350 Children in the care and custody of the agency and not removed from their minor mothers in a foster care placement are not deprived of their parent and therefore do not meet the removal requirement for Title IV-E-FC eligibility. The child's parent must be absent from the foster home before Title IV-E-FC can be considered for the minor parent's child. The cost of the minor parent's child must be included in the minor parent's foster care maintenance payment as defined in OAR 413-100-0060(2)(a).

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act

FRAUDULENT RECEIPT OF AFDC

413-100-0360 If it is a known fact that a family was fraudulently receiving AFDC based on parental absence, Title IV-E must be established on the basis of a two-parent household. However, if there is only suspicion and no documentation of fraud, Title IV-E eligibility based on an absent parent may be considered.

Statutory Authority: ORS 418.005
Stats. Implemented: Title IV-E of the Social Security Act