

Policy Title:	Adoption Assistance – OAR		
Policy Number:	I-G.3.1 413-130-0000 thru 0130		Effective Date: 12/29/2009

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- Public Law 96-272
- Public Law 99-514
- Federal PIQs (Policy Interpretation Questions)
- ORS 418.330-418.340
- Child Welfare Policy I-A.5.2, Contested Case Hearings
- Child Welfare Policy I-E.6.1, Title IV-E and General Assistance

Form(s) that apply:

- DE 1005, "Facilitation of Communication Form"
- CF 172 PCSP Personal Care Services Plan
- CF 450 Adoption Assistance Application Packet Checklist
- CF 803 – CANS Results (Ages 0 to 5)
- CF 804 – CANS Results (Ages 6 to 20)
- CF969A, Adoption Assistance Application, Child's Application
- CF969B, Adoption Assistance Application, Family Information
- CF969C, Adoption Assistance Application, Title IV-E Adoption Assistance Determination
- CF969D, Adoption Assistance Application, Title IV-E Determination

Rules:

413-130-0000

Purpose

The purpose of these rules, OAR 413-130-0000 to 413-130-0130, is to describe the Department's responsibility to determine eligibility for *adoption assistance* for Oregon children. *Adoption assistance* for children placed into Oregon from another state is the responsibility of the sending state.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0010

Definitions

The following definitions apply to OAR 413-130-0000 to 413-130-0130:

- (1) "Adoption assistance" means financial assistance and *medical coverage* granted to an *adoptive family* or *pre-adoptive family*, on behalf of an eligible adoptive *child*, to offset the costs associated with adopting and meeting the on-going needs of the *child*. *Adoption assistance* may include cash payments, *medical coverage*, an Agreement Only, reimbursement of *nonrecurring expenses*, or special payments.
- (2) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *adoptive family* or *pre-adoptive family* of a minor *child*.
- (3) "Adoption assistance payment" means a payment paid by the Department to the *adoptive family* or *pre-adoptive family* on behalf of the adoptive *child*.
- (4) "Adoption Assistance Review Committee" means a committee composed of local and central office staff who have expertise in the area of adoption.
- (5) "Adoptive family" means a family that includes at least one *child* who joined the family through a legally finalized adoption.
- (6) "Agreement Only" means a written agreement between the Department and the *adoptive family* or *pre-adoptive family* when there is no current need for *adoption assistance* benefits. An *Agreement Only* may be renegotiated at the request of the *adoptive family* as provided in OAR 413-130-0075, if a need arises prior to the *child* reaching 18 years of age.
- (7) "CANS screening" means the Child and Adolescent Needs and Strength screening, a process of integrating information on a *child* or young adult's needs and strengths for the purposes of case planning, service planning, and determining the supervision needs of the *child* or young adult. The Department uses two versions of the CANS Comprehensive Screening Tool, one for an individual birth through five years old and another version for an individual six through twenty years old.
- (8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to provide care, in the home in which they reside, to a *child* or young adult in the care or custody of the Department.
- (9) "Child" means a person under 18 years of age.
- (10) "Department" means the Department of Human Services, Child Welfare.
- (11) "Enhanced supervision" means the additional support, direction, observation, and guidance provided by a *certified family* to a *child* or young adult to promote and ensure the safety and well-being of a *child* or young adult, beyond the level of supervision that typically would be required for a *child* or young adult of the same age.

- (12) "Legally free" means that, with respect to a *child*, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise terminated by operation of law, thus allowing for the *child* to be adopted.
- (13) "Level of care" means the *payment* for *enhanced supervision* needs of a *child* or young adult to a *certified family*.
- (14) "Licensed adoption agency" means an adoption agency licensed by the state of Oregon to place children for adoption, or an adoption agency that holds a license from another state and is authorized under the laws of that state to place children for adoption.
- (15) "Medical coverage" means eligibility for medical services as provided through Medicaid in accordance with OAR 413-130-0100.
- (16) "Nonrecurring expenses" mean a one-time *payment* up to \$1,500, which the Department may pay to a *pre-adoptive family* to assist with the expenses incurred in legally finalizing the adoption of a special needs *child* as provided in OAR 413-130-0080. Nonrecurring adoption expenses are the reasonable and necessary adoption fees which may include the cost of a home study, court costs, attorney fees, physical and psychological examinations, travel to visit with the adoptive *child* prior to the placement, and other expenses which are related directly to the legal adoption of a *child* with special needs, are not incurred in violation of state or federal law, and have not been reimbursed from other sources or funds.
- (17) "Payment" means cash assistance to an *adoptive family* or *pre-adoptive family* to meet the child's needs.
- (18) "Pre-adoptive family" means an individual or individuals with a current Certificate of Approval to operate a home to provide care for a *child* placed by the Department for purposes of adoption.
- (19) "Qualified alien" means, but is not limited to, permanent residents, asylees, and refugees under 8 USC 1641(b).
- (20) "Qualified vendor attorney" means an attorney who has a price agreement with the Department to process the adoption of a *child* who is eligible for *adoption assistance*.
- (21) "Sibling" means one of two or more children related:
- (a) By blood or adoption through a common legal parent;
 - (b) Through the marriage of the children's legal or biological parents; or
 - (c) Through a legal or biological parent who is the registered domestic partner of the child's legal or biological parent.
- (22) "Special payment" means a *payment* for unanticipated short-term costs which are directly related to the child's special needs or are essential to the welfare of the *child*, and are not covered by the adoptive family's insurance or by Medicaid as negotiated between the Department and the family.

- (23) "Substitute care" means the out-of-home placement of a *child* or young adult who is in the legal or physical custody and care of the Department.
- (24) "Tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.
Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.330 - 418.340

413-130-0020

Special Needs Determination for Adoption Assistance Eligibility

A *child* in the custody of the Department, a *tribe* with a Title IV-E Agreement, or a *licensed adoption agency* in Oregon is eligible for *adoption assistance* when the requirements of all of the following sections are met:

- (1) The state has determined that the *child* cannot or should not be returned to the home of his or her parents. This decision is based on one of the following:
 - (a) An order from a court of competent jurisdiction terminating parental rights;
 - (b) The existence of a petition for termination of parental rights;
 - (c) For a *child* under the jurisdiction of the court, a signed relinquishment;
 - (d) For a *child* not under the jurisdiction of the court, a signed relinquishment and a subsequent court finding signed within six months of the date the *child* was last living with the parent that it would be contrary to the welfare of the *child* to return home at that time; or
 - (e) In the case of an orphan, verification of the death of the parent or parents.
- (2) The Department determines the *child* has special needs, meaning the *child* has at least one of the following factors or conditions which make adoptive placement difficult to achieve:
 - (a) A documented medical, physical, mental, emotional condition or other clinically diagnosed disability, or a documented history of abuse or neglect or other identified predisposing factor that places the *child* at risk for future problems that need treatment;
 - (b) Is a member of a *sibling* group which will be placed together and is difficult to place because there are three or more children, or if in a *sibling* group of two, at least one of the children is six years of age or older;
 - (c) Is a member of an ethnic, racial, or cultural minority (such as African American, Hispanic, Asian, Indian, or Pacific Islander); or
 - (d) Is eight years of age or older.
- (3) A reasonable but unsuccessful effort to place the *child* with an appropriate *adoptive family* for adoption without assistance has been made, unless such effort is not in the best interests of the *child*.

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

413-130-0030

Eligibility for Nonrecurring Expenses

- (1) Any *child* who meets the eligibility criteria for *adoption assistance* under OAR 413-130-0020 is eligible for reimbursement of *nonrecurring expenses*.
- (2) A *child* being adopted by an Oregon resident who is not the responsibility of the Department or an Oregon *licensed adoption agency* also is eligible for reimbursement of *nonrecurring expenses* if all other eligibility requirements under OAR 413-130-0020 are met.

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

413-130-0040

Eligibility for Adoption Assistance Payments

- (1) The Department makes efforts to establish Title IV-E eligibility under OAR 413-100-0335 for any *child* eligible for *adoption assistance* under OAR 413-130-0020. Licensed adoption agencies must make all requested efforts to assist the Department in establishing Title IV-E eligibility. A *child* eligible for an *adoption assistance payment* under OAR 413-130-0020 who is determined ineligible for Title IV-E, is eligible for state-funded *adoption assistance*.
- (2) A *child* determined eligible for an *adoption assistance payment* with respect to a prior adoption who becomes available for adoption again and continues to meet the special needs criteria set forth in OAR 413-130-0020, is eligible for an *adoption assistance payment* in the subsequent adoption when:
 - (a) The prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated or relinquished; or
 - (b) The child's adoptive parents have died.
- (3) In addition to the *adoption assistance* eligibility criteria under OAR 413-130-0020 and section (2) of this rule, a *child* must meet the following requirements, as applicable:
 - (a) For adoption through a *licensed adoption agency*, the *child* must have been placed voluntarily with the *licensed adoption agency* in out-of-home care in the month the voluntary agreement was signed.
 - (b) Judicial Determination Criteria. A "contrary to the welfare" or "best interest" ruling is not required for a *child* receiving SSI, or for a *child* whose eligibility is based on a foster care *payment* being made for the child's minor parent with whom the *child* is placed, while in foster care. For any other *child*, a judicial determination that it is "contrary to the welfare of the *child* to remain in the home" or is in the "best interest of the *child* to be removed from the home" must be contained in one of the following:
 - (A) The first court order of removal for a *child* removed by court order;

- (B) A court order signed within six months of the month the *child* last lived with a specified relative if the child's removal was via parental relinquishment only. Documentation of the date of the signing of the court order is necessary; or
- (C) A court order with a finding made within 180 days of the date that the *child* voluntarily entered care, and signed within six months of the date the *child* was last living with the parent.
- (c) The *child* must be a United States citizen or a *qualified alien* pursuant to OAR 413-100-0210(2).

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0045

Child's Immigrant Status

- (1) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, as amended, limited federal public benefits to qualified aliens. *Adoption assistance* under Title IV-E of the Act is considered a federal public benefit for the purposes of the PRWORA and, therefore, limited to U.S. citizens and qualified aliens.
- (2) If a substitute caregiver or adoptive parent is not a *qualified alien*, a *child* who is otherwise eligible under section 473 of PRWORA must meet the five-year residency requirement to receive Title IV-E *adoption assistance* as Section 403 of PRWORA requires a *qualified alien* entering the United States on or after the date of enactment of PRWORA (August 22, 1996), unless excepted, to live in the United States for five years before becoming eligible for certain federal public benefits. In accordance with section 403(c)(2)(F) of PRWORA, however, a federal *payment* for *adoption assistance* is excluded from the five-year residency requirement if the *child* and the foster or adoptive parent with whom the *child* is placed are qualified aliens under OAR 413-130-0050.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0050

Availability of New Adoption Assistance and Adoption Assistance Payment Adjustments

- (1) The availability of state funds governs the *adoption assistance* payments which may be obligated. If all available *adoption assistance* funds are obligated, the Department continues to accept and process new applications and requests for adjustments in *adoption assistance* payments and establishes a waiting list. *Adoption assistance* agreements are granted in the order of the date of approval as funds become available. For a new *adoption assistance* application, an *adoptive family* is offered the opportunity to sign an *Agreement Only* to prevent delay in finalizing the adoption.
- (2) *Substitute care* payments end when *adoption assistance* payments begin. *Medical coverage* continues until the *adoption assistance payment* is negotiated, agreements are signed, and *adoption assistance* benefits begin. *Medical coverage* as provided by

Medicaid may continue as an *adoption assistance* benefit when requested by the *adoptive family* or *pre-adoptive family*.

- (3) When a *child* is *legally free* for adoption, the Department's local office staff completes the *adoption assistance* application with the *pre-adoptive family* and submits the application to the Adoption Program no later than 60 days from the date the *pre-adoptive family* is selected. No later than 60 days after receipt of the completed *adoption assistance* application, the Department's Adoption Program staff must begin negotiation of the *adoption assistance agreement*.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0060

Agreement Only

- (1) An *Agreement Only* between the Department and the *pre-adoptive family* or *adoptive family* is signed when there is no current need for an *adoption assistance payment* or *medical coverage*, the *adoptive family* requests such an agreement, and the *child* is eligible for *adoption assistance* under OAR 413-130-0020.
- (2) The *Agreement Only* becomes effective on the date the completed *adoption assistance agreement* is approved and signed by the Department, and automatically terminates when the *child* reaches 18 years of age.
- (3) The *adoptive family* must make a written request to the Department to initiate any *adoption assistance* benefits subsequent to completing an *Agreement Only*. The *adoptive family* must provide documentation to the Department describing the child's need for services at the time an *adoption assistance* benefit is requested as provided in OAR 413-130-0075.
- (4) The *pre-adoptive family* must notify the Department in writing if the family chooses not to accept any form of *adoption assistance* benefits, including an *Agreement Only*.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0070

Determination of the Adoption Assistance Payment

- (1) The rate of a monthly *adoption assistance payment* must be negotiated between the Department and the *pre-adoptive family*, taking into consideration relevant factors which include, but are not limited to:
 - (a) The special needs of the *child*;
 - (b) The services required to meet the child's special needs;
 - (c) The cost of the required services for the *child*;
 - (d) The family's ability to provide the required services to the *child*; and
 - (e) The resources available to the *adoptive family* and *child* in the community.

- (2) The *adoption assistance payment* is negotiated prior to completion of the *adoption assistance agreement*. The *adoption assistance payment* may not exceed the foster care base rate the *child* would receive if he or she continued in *substitute care* plus, effective September 1, 2009, any applicable *level of care payment* for *enhanced supervision* as determined by a *CANS screening*.
- (3) If a *child* under the age of eight years meets special needs status under OAR 413-130-0020(2) and has no documented medical, physical, mental, or emotional condition, or other clinically diagnosed disability, he or she receives an *adoption assistance payment* that may not exceed the foster care base rate the *child* would receive if he or she continued in *substitute care*, unless the *pre-adoptive family* enters into an *Agreement Only*.
- (4) An initial *adoption assistance payment* begins when all of the following criteria are met:
 - (a) The *child* is *legally free* for adoption;
 - (b) The Department or *licensed adoption agency* has designated the *pre-adoptive family* as the designated adoptive placement;
 - (c) An *adoption assistance agreement* has been signed by the *pre-adoptive family* and by the Department representative.
- (5) Medicaid coverage, private insurance, public education, and all community resources must be considered as resources for the *child* and the *pre-adoptive family* or *adoptive family* when determining the amount of an *adoption assistance payment*. A *child's* income from sources such as Social Security and Veterans benefits are considered in determining the *adoption assistance payment*, but are not necessarily deducted dollar for dollar from the amount of the *adoption assistance payment*.
- (6) When adoptive parents divorce, legally separate, or are party to a judicially recognized modification of custody, the Department may request updated information, including financial information, to reflect the change in family circumstances.
- (7) Within 30 days of receipt of a request from an adoptive parent for change of payee due to a divorce, legal separation, or other judicially recognized modification of custody, the Department must notify the other adoptive parent of the request. It is the responsibility of the requestor to provide the Department with the other adoptive parent's current address and telephone number. Failure to provide such information may cause a delay in processing the request. The adoptive parents have 60 days from the date the Department sends the notice to challenge the change of payee request. If the change of payee is challenged, the Department requires a valid legal document describing physical custody of the *child*. Any change of payee is determined based on legal documentation describing the physical custody of the *child*.
- (8) An *adoptive family* who moves out-of-state continues to be eligible for *adoption assistance* benefits. *Medical coverage* for the *child* may change under OAR 413-130-0100.
- (9) An *adoption assistance payment* may be retroactive to the date of the signed *adoption assistance* application if the *child* was *legally free* for adoption and in the designated

adoptive placement on that date, and no foster care base rate, *enhanced supervision*, or personal care services *payment* was made for the same period.

- (10) An *adoption assistance payment* is issued at the end of each month of eligibility.
- (11) An *adoption assistance payment* made to an *adoptive family* by the Department is inalienable by any assignment or transfer and exempt from execution, levy, attachment, or garnishment under the laws of this state.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0075

Renegotiation of an Adoption Assistance Payment

- (1) An *adoptive family* may request an increase of an *adoption assistance payment* through the Department's *adoption assistance* coordinator. The request for renegotiation of *adoption assistance* must be made in writing by the *adoptive family* and be based on significant change in one or more of the relevant factors set forth in OAR 413-130-0070(1).
- (2) Effective September 1, 2009, renegotiation may include the consideration of:
 - (a) The results of a *CANS screening* which is conducted prior to the renegotiation of *adoption assistance* when the *adoptive family* requests a *payment* higher than the child's foster care base rate; and
 - (b) The *adoptive family* demonstrates the child's physical, mental health, behavioral, or developmental needs have worsened or required escalated care and treatment.
- (3) A renegotiated *adoption assistance payment* must be initiated pursuant to OAR 413-130-0070.
- (4) A renegotiated *adoption assistance payment* may not exceed the total foster care base rate plus any applicable *enhanced supervision payment* that would be paid for the *child* in *substitute care*.
- (5) When the *adoption assistance payment* is renegotiated, a new *adoption assistance agreement* with the revised *adoption assistance payment* must be signed by the *adoptive family* and the Department prior to a change in the *payment*.
- (6) A renegotiated *adoption assistance payment* becomes effective on the first of the month in which the written request to renegotiate was received by the Department's Adoption Program. In no case may a renegotiated *adoption assistance payment* be paid for more than 12 retroactive months.
- (7) If, after renegotiation, the *adoptive family* does not agree with the renegotiated *adoption assistance payment* amount, the *adoptive family* may appeal the decision as provided in OAR 413-130-0115.

Stat. Auth.: ORS 418.005, 418.340

Stats Implemented: ORS 418.330 - 418.340

413-130-0080

Payment for Nonrecurring Expenses

- (1) The Department may make a one-time *payment* of up to \$1,500 to a *pre-adoptive family* for *nonrecurring expenses* to assist with the costs incurred in legally finalizing the adoption of a special needs child. *Nonrecurring expenses* for adoption are the reasonable and necessary adoption fees, court costs, attorney fees, mediation costs, and other expenses which are directly related to the legal adoption of a special needs child. Other *nonrecurring expenses* may include the cost of a home study, health and psychological examinations, travel to visit with the adoptive child prior to the placement, supervision of the placement prior to adoption, and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law.
- (2) *Payment for nonrecurring expenses* may not duplicate expenses covered by the Interstate Compact for Placement of Children, a Department contract with a *licensed adoption agency*, or already covered by some other resource available to the *adoptive family*.
- (3) Documentation of the *nonrecurring expenses* is required and must be submitted prior to execution of the *adoption assistance agreement*. The agreement, indicating the nature and amount of the *nonrecurring expenses*, must be signed prior to the final decree of adoption.
- (4) The legal fees, when reimbursement is requested, are included in the *nonrecurring expenses*. It is the responsibility of the *pre-adoptive family* to choose a privately retained attorney or enter into a legal fees agreement with a *qualified vendor attorney*. The Department makes *payment* directly to the *qualified vendor attorney* after the adoption is finalized. For privately retained attorneys, the *pre-adoptive family* is responsible for *payment*, and after the adoption is finalized the Department will reimburse the family for reasonable charges. Reasonable charges are the current *qualified vendor attorney* rate, and only in extraordinary circumstances may a higher amount be considered.
- (5) Payments for *nonrecurring expenses* are made when the Department receives the final decree of adoption.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0090

Special Payments

A *special payment* may be approved in exceptional cases as negotiated between the Department and the *adoptive family*. The Department may authorize a *special payment* for a limited duration, subject to the Department's discretion and availability of resources. An *adoptive family* making a request for a *special payment* must make documentation available to the Department when requested. A *special payment* is made to the *adoptive family* who then is responsible to reimburse the provider for the services.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0100

Medical Assistance

- (1) An adoptive *child* who meets the requirements of OAR 413-130-0020 is eligible for Medicaid coverage as provided by the Department of Human Services, Division of Medical Assistance Programs (DMAP) under the requirements of Oregon Health Plan.
- (2) An adoptive *child* for whom Medicaid eligibility has been established is issued a medical identification card through DMAP. *Payment* for medical services will be in accordance with Department of Human Services administrative rules.
- (3) *Medical coverage* for a Title IV-E eligible *child* is provided by the medical assistance program in the state where the *child* resides:
 - (a) If the *child* is placed outside the adoptive home and is eligible for federal funding through Title IV-E or SSI, the state in which the *child* resides will provide *medical coverage* in accordance with the rules of that state even if the *adoptive family* resides in a separate state.
 - (b) If the *adoptive family* moves to another state or the *child* is placed for adoption in a state other than Oregon, the Department provides the documentation necessary to assist the *adoptive family* to obtain Medicaid coverage.
 - (c) The Department provides written verification of the child's Title IV-E eligibility to the appropriate coordinator of the *adoption assistance* program in the state where the *adoptive family* is residing to facilitate Medicaid *medical coverage*.
- (4) *Medical coverage* for a *child* who is not eligible for Title IV-E is provided by DMAP under the rules of the Oregon Health Plan. If the *child* is placed in another state, or the *adoptive family* moves from Oregon to another state, the *child* may continue to receive *medical coverage* from Oregon, except in those cases where the other state will provide the Medicaid coverage (see section (3) of this rule).
- (5) An *adoption assistance* agreement must be signed by the *adoptive family* and the Department which documents that the *child* is eligible for *adoption assistance*, and that *medical coverage* has been requested.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0110

Administration of Approved Adoption Assistance

- (1) It is the responsibility of Department and *licensed adoption agency* staff to:
 - (a) Notify or advise the *pre-adoptive family* of the availability of *adoption assistance* for an eligible *child*;
 - (b) Provide the *pre-adoptive family* with a copy of OAR 413-130-0000 to 413-130-0130; and
 - (c) Assist the *pre-adoptive family* in making an application for *adoption assistance*, if appropriate.

- (2) A *pre-adoptive family* must submit a written application for *adoption assistance* to the Adoption Program through the family's respective Department local office worker or *licensed adoption agency* worker.
- (3) A *pre-adoptive family* applying for *adoption assistance* must be approved by the respective *licensed adoption agency* as being a suitable *adoptive family* who meets all state standards including certification standards as provided in Child Welfare Policy I-G.1.1, "Current Caretaker Adoption" OAR 413-120-0500 to 413-120-0550.
 - (a) A *licensed adoption agency* recommending *adoption assistance* for an *adoptive family* is responsible to verify and document on the *adoption assistance* application that efforts were made to place the *child* without *adoption assistance*.
 - (b) The Department local office submitting an *adoption assistance application* must assure that the adoptive placement status has been approved by the Department's Adoption Program.
- (4) Prior to the finalization of an adoption and issuance of any benefits, a written *adoption assistance agreement* must be completed that meets all of the following requirements. The agreement must ---
 - (a) Be signed by each pre-adoptive parent and the Department.
 - (b) State the duration of the agreement.
 - (c) State the amount of *adoption assistance* benefits, if any, and specify:
 - (A) The amount of the *adoption assistance* monthly *payment*, if any; and
 - (B) The nature and amount of any other payments, services, and assistance to be provided, including *nonrecurring expenses*.
 - (d) State that the agreement remains in effect regardless of the state of residence of the *pre-adoptive family* or *adoptive family* and the *child*.
 - (e) State whether the *child* is to receive medical benefits, and specify the child's eligibility for Title XIX and Title XX.
 - (f) State that Oregon Law ORS 192.520 allows the Department of Human Services' Oregon Health Plan (OHP) and OHP managed care plans to exchange the following protected health information without authorization from the pre-adoptive or adoptive parent for the purpose of treatment activities related to behavioral or physical health:
 - (A) Name and Medicaid recipient number;
 - (B) Name of the hospital provider or attending physician;
 - (C) The performing provider's Medicaid number;
 - (D) Diagnosis;

- (E) Each date of service;
 - (F) Procedure or Revenue code;
 - (G) The quantity of units or services provided; and
 - (H) Information about prescription medication and monitoring.
- (g) State that the *pre-adoptive family* or *adoptive family* has the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Cases" OAR 413-010-0500 to 413-010-0535 for any denial, reduction, or suspension of *adoption assistance* benefits.
- (5) The initial effective date of the *adoption assistance agreement* is determined by the Department's Adoption Program, taking into consideration the request of the *pre-adoptive family* and the recommendations of the *licensed adoption agency* or the Department's local office. The effective date may not be prior to the completion of a signed *adoption assistance* application, and must be effective no later than the date the adoption is finalized.
- (6) Annually, the Department's Adoption Program sends a letter to adoptive families requiring assurance that each *child* receiving a Title IV-E or non-IV-E *adoption assistance payment* is a full-time elementary or secondary school student, or is incapable of attending school due to a documented medical condition.
- (7) No *adoption assistance* may be provided to an adoptive parent if the adoptive parent is no longer legally and financially responsible for the support of the *child*, or the *child* is no longer receiving support from the adoptive parent. An adoptive parent is considered no longer legally responsible for the support of a *child* when parental rights have been terminated or when the *child* becomes an emancipated minor, marries, or enlists in the military.
- (8) In the case of an adopted *child* who becomes *legally free* for adoption due to the adoptive parent or parents' relinquishment of the *child*, the termination of the adoptive parent or parents' parental rights to the *child*, or the death of the adoptive parent or parents, the determination of eligibility of the adopted *child* for *adoption assistance* remains based on the eligibility of the *child* as if the *child* were in the same financial and other circumstances the *child* was in the last time the *child* was determined eligible for *adoption assistance* benefits. The *child* must meet special needs criteria under OAR 413-130-0020 at the time the *child* again becomes available for adoption. (This rule is intended to meet the requirements of Sec. 473 (a)(2)(C) of the Social Security Act, 42 USC 673.)
- (9) If a *child* receiving *adoption assistance* benefits is placed in *substitute care*, *adoption assistance* benefits may be adjusted, continued, or suspended. If the *adoptive family* is involved in the child's treatment, and the plan is for the *child* to return home, the family may ask to have the *adoption assistance* suspended, continued, or adjusted to reflect current expenses. The Department may suspend, continue, or adjust *adoption assistance* benefits to reflect current expenses. When the *child* returns to the care of the *adoptive family*, *adoption assistance* benefits may be reviewed upon request by the *adoptive family*.

- (10) An *adoptive family* must immediately inform the Department's Adoption Program when a change in circumstances indicates that there is no longer a need for *adoption assistance* as provided in OAR 413-130-0110(7).
- (11) The Department may terminate the *adoption assistance agreement* upon 30 days written notice to the *adoptive family* when the *child* is no longer in the home, and the *adoptive family* is no longer providing support for the *child*.
- (12) An *adoption assistance agreement* automatically terminates, as required by Oregon law, when the *child* is 18 years old.
Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.330 - 418.340

413-130-0115

Adoption Assistance Review Committee and Appeals Procedure

- (1) The *Adoption Assistance Review Committee* serves as a consultation and review body for the *adoption assistance* program.
 - (a) Adoption Program staff may refer unusual or exceptionally costly benefit requests to the *Adoption Assistance Review Committee* for consultation; or
 - (b) If, during negotiations of *adoption assistance* benefits, Adoption Program staff and the *adoptive family* or *pre-adoptive family* are unable to reach agreement, the matter may be referred to the *Adoption Assistance Review Committee* for review at the request of either Adoption Program staff or the *adoptive family* or *pre-adoptive family*.
- (2) The *adoptive family* or *pre-adoptive family* and the assigned caseworker must provide written documentation for the Committee's consideration.
- (3) The caseworker for the *pre-adoptive family* may participate in an *Adoption Assistance Review Committee* meeting by phone.
- (4) The *Adoption Assistance Review Committee* reviews relevant materials and provides a recommendation regarding level of benefits to the Department's *adoption assistance* coordinator. The *Adoption Assistance Review Committee* takes into consideration the special needs of the *child* and the financial circumstances of the *adoptive family* or *pre-adoptive family*.
- (5) If the *adoptive family* or *pre-adoptive family* is unsatisfied with the *adoption assistance* offer made by the *Adoption Assistance Review Committee*, the family may request further review by the Department's Adoption Program Manager.
- (6) Requests for further review must be made in writing and received by the Department's Adoption Program Manager within 14 days from the date of the *Adoption Assistance Review Committee* recommendation.
- (7) The Adoption Program Manager reviews the material and makes a decision within 60 days from the date of the *Adoption Assistance Review Committee* recommendation.

- (8) After receipt of the Adoption Program Manager's decision, the *adoptive family* or *pre-adoptive family* may request a contested case hearing as provided in Child Welfare Policy I-A.5.2, "Contested Case Hearings" OAR 413-010-0500 to 413-010-0535.
Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.330 - 418.340

413-130-0125

Budgetary Reductions of Adoption Assistance

Once a *child* is adopted and determined to be eligible for *adoption assistance*, an *adoption assistance payment* may not be adjusted without the agreement of the *adoptive family*, except as provided under OAR 413-130-0110(7), (11), and (12).

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

413-130-0130

Post Finalization Applications for Adoption Assistance

After the adoption has been finalized:

- (1) An *adoptive family* may request the opportunity to apply for *adoption assistance* based on the following extenuating circumstances:
 - (a) Relevant facts regarding the *child*, the biological family, or child's background were known, but not shared with the *adoptive family* prior to legal finalization of the adoption;
 - (b) *Adoption assistance* was denied based on an assessment of the financial need of the *adoptive family*;
 - (c) The Department determined the *child* was ineligible for *adoption assistance*, but information becomes known which indicates it would be appropriate to review this determination; or
 - (d) The Department failed to advise the *adoptive family* of a special needs *child* of the availability of *adoption assistance*.
- (2) An *adoptive family* must submit a written request to the Department's *adoption assistance* coordinator indicating the desire to apply for *adoption assistance* after an adoption has been legally finalized.
- (3) Upon receipt of the written request, the Department determines, within thirty days, whether the *child* meets Title IV-E eligibility requirements.
- (4) When an *adoptive family* requests that the Department provide historic information regarding the *child* to determine eligibility for *adoption assistance*, the Department may obtain non-identifying genetic, social, and health history information as provided by ORS 109.425 through 109.507. In addition, the Department may request a court order to review the sealed adoption file.

- (5) If the Department determines that a *child* meets Title IV-E eligibility requirements, federal policy requires a contested case hearing be held before the state may provide *adoption assistance* benefits:
- (a) The Department's *adoption assistance* coordinator must write a summary of the situation and submit a hearing referral and appropriate documentation to the Office of Administrative Hearings within 45 days of receipt of the request for a contested case hearing.
 - (b) An *adoptive family* has the burden of proof to show that extenuating circumstances exist. The Department may provide corroborating facts to both the *adoptive family* and the administrative law judge.
 - (c) The contested case hearing is conducted under Child Welfare Policy I-A.5.2, "Contested Case Hearings" OAR 413-010-0500 to 413-010-0535.
 - (d) If the contested case hearing decision finds that extenuating circumstances exist, an *adoption assistance* application may be signed, effective the date of the contested case hearing request.
- (6) If the Department determines that a *child* does not meet Title IV-E eligibility requirements, the Department's *adoption assistance* coordinator must prepare information for the Adoption Program Manager's review including information submitted by the *adoptive family* and information from Department records. The Adoption Program Manager decides if extenuating circumstances under section (1) of this rule exist which justify accepting an *adoption assistance* application from the *adoptive family*.
- (a) A written finding will be sent to the *adoptive family* within 30 days.
 - (b) If the Adoption Program Manager finds that extenuating circumstances do not exist, the *adoptive family* may request a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings" OAR 413-010-0500 to 413-010-0535. The administrative law judge in such a hearing reviews whether extenuating circumstances exist so that the *adoptive family* may submit an application for *adoption assistance*. Whether the *adoption assistance* application is approved is a separate determination by the Department.
- (7) If the decision, through a contested case hearing or Adoption Program Manager review, is that the *adoptive family* is eligible to apply for *adoption assistance* on behalf of the *child*, and the *adoption assistance* application results in the award of *adoption assistance*:
- (a) The *adoption assistance* payments (in the form of a one time lump sum *payment*) may not be retroactive for more than 12 months from the date of the signed *adoption assistance* application; and
 - (b) If after negotiation, the *adoptive family* does not agree with the amount negotiated, the family may appeal the decision under Child Welfare Policy I-A.5.2, "Contested Case Hearings" OAR 413-010-0500 to 413-010-0535.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330 - 418.340

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- 08/21/95 *(not available electronically)*
- 12/29/95 *(not available electronically)*
- 09/17/96 *(not available electronically)*
- 07/01/98 *(not available electronically)*
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- 06/03/99 thru 11/30/99 *(not available electronically)*
- [11/24/99](#)
- [04/01/02](#)
- [02/01/03](#)
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- [04/01/04](#)
- [01/01/06](#)
- [07/01/06](#)
- [07/01/08](#)
- [10/01/08](#)
- [07/01/09 thru 12/28/09](#)
- [06/30/11 thru 9/30/11](#)
- [10/01/11 thru 12/27/11](#)
- [12/28/11](#)