	STATE OFFICE for SERVICES to CHILDREN and FAMILIES CLIENT SERVICES MANUAL I ISSUED BY: Program Operations EFFECTIVE DATE: September 17, 1996	NUMBER: I-G.3.1 SECTION: G. Adoption SUBSECTION: 3. Post-Adoption Services
SUBJECT: 1. Adoption Assistance		

Prior Version

Interpretation: Program Coordinator, Adoption Assistance

Approval: Karen Gunhart
Assistant Administrator, Program Operations

REFERENCES: SOSCF Policy I-A.5.2, Contested Case Hearings
Public Law 96-272
Public Law 99-514
Federal PIQs (Policy Interpretation Questions)
ORS 418.330-418.340
OAR 413-100-0000 through 413-100-0360, Title IV-E and General Assistance, SOSCF Policy I-E.6.1

PURPOSE

413-130-0000 The State of Oregon administers an adoption assistance program that is funded by General Fund dollars and the Title IV-E adoption assistance program under PL 96-272 (Adoption Assistance and Child Welfare Act of 1980). The purpose of these rules is to set forth criteria used to determine eligibility for the adoption assistance program.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

DEFINITIONS

413-130-0010 (1) "Adoption Assistance" means financial and/or medical assistance to adoptive families to assist them with the costs associated with their adoptive child's needs made from SOSCF's adoption assistance budget. Assistance can be in the form of cash and/or medical coverage, an agreement only or special payments.

(2) "Agreement Only" is an agreement between SOSCF and the parents signed prior to the finalization of the adoption, to provide adoption assistance when/if a need for payment and/or medical coverage arises prior to the child's 18th birthday.

(3) "Payment" means cash assistance to adoptive families to meet the child's needs.

(4) "Qualified Vendor Attorney" is an attorney who agrees to accept SOSCF's rate of reimbursement as payment in full for finalizing the adoption of a child who is eligible for adoption assistance.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

	STATE OFFICE for SERVICES to CHILDREN and FAMILIES CLIENT SERVICES MANUAL I ISSUED BY: Program Operations EFFECTIVE DATE: September 17, 1996	NUMBER: I-G.3.1 SECTION: G. Adoption SUBSECTION: 3. Post-Adoption Services
SUBJECT: 1. Adoption Assistance		

Prior Version

SPECIAL NEEDS ELIGIBILITY CRITERIA FOR CHILDREN

413-130-0020 A child who is in the permanent custody of SOSCF or a licensed adoption agency in Oregon may be eligible for adoption assistance, including monthly assistance payments, medical coverage, an agreement only and special payments. In order to be eligible the child must meet all three of the following criteria which establish special needs status:

(1) The state has determined that the child cannot or should not be returned to the home of his/her parents. This decision shall be based on:

(a) An order from a court of competent jurisdiction terminating parental rights; or

(b) The existence of a petition for termination of parental rights; or

(c) A signed relinquishment, and for children not already under the court's jurisdiction, a subsequent court finding that it would be contrary to the welfare of the child to return home; or

(d) In the case of an orphan [ed child], verification of the death of the parent.

(2) The child has at least one of the following factors or conditions which make adoptive placement difficult to achieve:

(a) Has a documented medical, physical, mental, emotional-condition or other clinically diagnosed disability or has a documented history of abuse or neglect or other identified predisposing factor that places the child at risk for future problems and need for 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/cultural minority (e.g. African American, Hispanic, Asian, Indian, Pacific Islander);

(d) Is eight years of age or older; or

(e) Has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child (or relative placement), and the family needs financial and/or medical assistance in order to rear the child.

Prior Version

(3) Reasonable but unsuccessful efforts, except where it would be against the best interests of the child, have been made to place the child for adoption without assistance. Efforts to do so must be documented as shown by statewide and/or interstate recruitment, such as registration with the Special Needs Adoption Coalition and/or the Northwest Adoption Exchange or other special needs recruitment resources, or by other documented attempts to locate an adoption resource which will not require adoption assistance. (Exempted from this criterion would be situations where relatives or foster parents who have significant emotional ties with the child they wish to adopt.)

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

ELIGIBILITY FOR NONRECURRING COSTS REIMBURSEMENT

413-130-0030 A separate federal statute, Public Law 99-514, provides for the reimbursement of nonrecurring costs directly related to the adoption. All children who meet the above criteria will also be eligible for payment of the nonrecurring costs. In addition, children who are not in the permanent custody of SOSCF or a licensed adoption agency in Oregon, but are being adopted by an Oregon resident, will also be eligible if they meet all other eligibility requirements for nonrecurring reimbursement.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

TITLE IV-E ELIGIBILITY

413-130-0040 (1) SOSCF will make efforts to establish Title IV-E eligibility for all children who meet the special needs criteria. Licensed adoption agencies shall make all requested efforts to assist SOSCF in establishing Title IV-E eligibility. Children who meet the special needs criteria, but are not determined to be Title IV-E eligible, will be eligible for fully state-funded adoption assistance.

(2) In addition to the special needs criteria a child must meet the following criteria to be Title IV-E eligible:

(a) Financial Needs Criteria:

(A) The child's eligibility for Title IV-E was established while in substitute care; or,

(B) A child removed from his/her parent(s)' home was AFDC eligible in the month the removal was initiated or would have been AFDC eligible had the family applied; or,

Prior Version

(C) A child removed from a relative home received AFDC in the month court action for the child's removal was initiated, or the child would have been AFDC eligible in the relative's home had the relative applied; or,

(D) The child was voluntarily relinquished and found AFDC eligible in the month the voluntary relinquishment was signed; or,

(E) The child was voluntarily placed with the public or private agency in out-of-home care and was AFDC eligible in the month the voluntary agreement was signed and received at least one IV-E foster care payment (IV-E payment is not required for a private agency); or,

(F) The child is receiving SSI or met the requirements for SSI eligibility prior to the finalization of the adoption; or,

(G) The child is residing with a relative intending to adopt and the child meets the criteria for an AFDC Non-Needy Relative grant.

(b) Judicial Determination Criteria. A judicial determination that it is "contrary to the welfare" of the child to remain in the home is contained in:

(A) The first court order of removal for children removed by court order; or,

(B) A court order initiated within six months of the month the child last lived with a relative if the child's removal was via parental relinquishment only. Documentation of the date of the initiation of the court order is necessary; or,

(C) A court order finding made within 180 days of a child voluntarily placed into care. A contrary to the welfare ruling is not required for children receiving SSI or children with a relative who is planning to adopt.

(c) Living with Specified Relative Criteria (per OAR 413-100-0140). At the time the adoption petition is filed the child:

(A) Must have lived with a specified relative within six months prior to the month court proceedings were initiated to review the voluntary placement or relinquishment of a child; or,

Prior Version

(B) Must have lived with a specified relative within six months prior to the month court proceedings leading to the judicial removal of the child were initiated.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

AVAILABILITY OF NEW ASSISTANCE AND RATE ADJUSTMENTS

413-130-0050 The availability of state funds shall govern the rate of payments which can be obligated. If all of the adoption assistance funds are obligated, SOSCF shall continue to accept and process applications and requests for increases in assistance and shall establish a waiting list. Assistance agreements will be granted in the order of the date of approval as funds become available.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

AGREEMENT ONLY

413-130-0060 (1) An agreement only shall be entered into between SOSCF and the adoptive parent(s) when there is no current need for adoption assistance, the parent(s) request such agreement, and the child meets adoption assistance special needs criteria.

(2) The agreement only shall become effective on the date the completed adoption assistance agreement is approved and signed by the SOSCF, and shall automatically terminate upon the child's 18th birthday.

(3) A written request to the agency by the adoptive parent(s) will be made prior to initiation of cash and/or medical payments. The parent(s) will provide documentation to establish the child's need for service and costs of service at the time assistance is requested.

(4) Adoption staff will consider an agreement only for all adoptive families of a child who meets the special needs criteria. If an agreement only is not appropriate due to the existence of a current need for benefits, other types of adoption assistance will be discussed with the family.

(5) Agreement only adoption assistance agreements shall be governed by policy for monthly payment and medical assistance agreements, payments and procedures except as noted herein.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

Prior Version

MONTHLY PAYMENTS

413-130-0070 (1) The rate of monthly assistance payments shall be determined by negotiation between the adoptive family and the agency worker, with review, renegotiation if necessary, and approval by the SOSCF central office adoption assistance staff. Consultation from the adoption assistance coordinator is available during the negotiation.

(2) In negotiating the amount of a monthly payment consideration shall be given to the needs of the child and the circumstances of the family, recommendations of professionals and present adoption assistance funding.

(3) The amount of monthly payment will be negotiated prior to the completion of the adoption assistance agreement and may be adjusted at any time to reflect current needs and family circumstances. The rate of assistance will take effect upon completion of the adoption assistance agreement.

(4) Medicaid, private insurance, public education, and all community resources shall be considered as resources for the child and the family when negotiating the amount of assistance. Income to the child from sources such as Social Security and Veterans benefits shall be considered in negotiating a monthly payment, but will not necessarily be deducted dollar for dollar from the amount of monthly payment.

(5) The rate of the monthly payment cannot exceed what the child would currently require if placed in family foster care. When a child's needs exceed the standard foster care rate (determined by the age of the child), verification of the need for a higher foster care rate must be shown by completed Special Rate forms (SCF 172A and 172RN). When the child is not currently in foster care or there are no recently completed Special Rate forms available, other appropriate documentation may be accepted, for example: detailed letter from the parent describing the child's needs, therapist assessment, school report or psychological evaluation.

(6) When a change in monthly payment is negotiated, a new agreement in the adjusted amount must be signed by the parents and the adoption assistance coordinator prior to instituting the new payment rate.

(7) The foster care payment made to the adoptive family prior to the initiation of adoption assistance shall be discontinued when the adoption assistance agreement is in effect. Central office adoption assistance staff will notify the branch of the date assistance begins.

Prior Version

(8) Adoptive parents who move out of state shall continue to be eligible for adoption assistance.

(9) Monthly payments may begin when all of the following criteria are met:

(a) The child is legally free for adoption;

(b) An adoption assistance application has been signed;

(c) An agreement has been signed by the adoptive parent(s) and by the agency representative;

(d) SOSCF or a private agency has designated this family as the adoption placement.

(10) Actual payment may begin the date of the signed application.

(11) Adoption assistance payments will be made at the end of each month of eligibility.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

NONRECURRING PAYMENT FOR ADOPTION EXPENSES

413-130-0080 (1) SOSCF may make a one-time, nonrecurring payment to an adoptive family to assist with the costs incurred in legally finalizing the adoption of a special needs child up to a maximum of $2,000. Nonrecurring expenses 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 expenses are defined as the costs of adoption incurred by, or on behalf of, the parents and for which the parents carry the burden of payment, such as the adoption study, health and psychological examinations, supervision of the placement prior to adoption, transportation, and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the adoption process. This payment may not duplicate expenses covered by Interstate Compact for Placement of Children or expenses covered by SOSCF contract with a private agency.

(2) Documentation of the nonrecurring adoption expenses will be 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.

Prior Version

(3) The legal fees, when reimbursement is requested, are included in the nonrecurring costs. It is the responsibility of the adoptive family to choose a private attorney or a "vendor" attorney. Vendor attorneys are those who have an agreement with SOSCF to process SOSCF adoptions for the currently established vendor fee plus costs for filing and birth certificates. SOSCF will make payment directly to the vendor attorneys after adoption is legalized. For other attorneys, the adoptive family is responsible for payment and SOSCF will reimburse the family for reasonable charges. (Oregon attorneys may complete adoptions for Oregon children placed out-of-state.)

(4) Payment will be made when the agency receives the final order of adoption.
Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

SPECIAL PAYMENTS

413-130-0090 (1) 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 may be approved in exceptional cases as negotiated between SOSCF and the family. These expenses may be authorized by SOSCF for a limited duration, subject to the agency's discretion and availability of resources. Documentation shall be made available to SOSCF by the family. Payment will be made to the adoptive family who will then be responsible to reimburse the provider for services.
Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

MEDICAL ASSISTANCE

413-130-0100 (1) Children will be eligible for Medicaid coverage if one of the following criteria is met:

(a) The child was receiving Title IV-E foster care payments, Aid to Dependent Children Assistance, or SSI benefits at the time the adoptive placement was approved; or

(b) The child and adoptive parents would meet the income and resource standards of the ADC program administered under the Adult and Family Services Division; or

Prior Version

(c) Prior to the execution of the adoption assistance agreement, the child was not Title IV-E eligible, but was receiving or was eligible to receive Medicaid under the Oregon State Plan, and the child has a documented special need for medical or rehabilitative services, or services that preclude adoption without receipt of Title XIX Medicaid benefits; or

(d) Prior to the execution of the adoption assistance agreement, the child was not eligible for Medicaid coverage because he/she had income available above Adult and Family Services standards. However, the child had a condition which required a special foster care rate plus the standard foster care rate which was greater than the amount of the child's income.

(2) All Oregon families, for whom eligibility for medical assistance has been established, shall be issued medical identification for the child through the Office of Medical Assistance Programs. Payment for medical services will be in accordance with the administrative rules of DHR.

(3) Medical coverage for Title IV-E eligible children will be provided by the medical assistance program in the state where the child resides:

(a) If the child is eligible for federal funding through Title IV-E or SSI, the state in which the child and adoptive parents reside will provide medical coverage in accordance with the rules of that state;

(b) If the adoptive family moves to another state, or the child is placed for adoption in a state other than Oregon, SOSCF will provide information in writing, to the adoptive family advising them where to obtain Medicaid coverage;

(c) SOSCF will provide 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 in order to facilitate Medicaid medical coverage.

(4) Medical coverage for children who are not eligible for Title IV-E will be provided by the Office of Medical Assistance Programs under the state plan. If the child is placed in another state, or the adoptive family moves from Oregon to another state, the child will continue to receive medical coverage from Oregon.

Prior Version

(5) An adoption assistance agreement shall be signed by the adoptive parents and SOSCF which documents that the child is eligible for adoption assistance, and that medical coverage has been requested.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

ADMINISTRATION OF APPROVED ADOPTION ASSISTANCE

413-130-0110 (1) It is the responsibility of SOSCF staff and licensed private agency staff, to notify or advise adoptive parents of the availability of adoption assistance for children with special needs, provide adoptive parents with a copy of the adoption assistance policy, and assist the family in making application if appropriate.

(2) Applicants must submit a written application for adoption assistance to the SOSCF central office Adoption Unit through their respective SOSCF branch office or private adoption agency with appropriate documentation and clarification as requested.

(3) Prospective adoptive parents who apply for adoption assistance must be approved by their respective adoption agency as being suitable adoptive parents who meet all state standards.

(a) Licensed adoption agencies recommending adoption assistance for prospective adoptive parents are responsible to verify that efforts have been made to place the child without adoption assistance and must approve and document the agency plan for adoption prior to application for adoption assistance;

(b) The SOSCF branch offices submitting applications must assure that the adoptive placement status has been approved by the central office Adoption Unit;

(c) Central office adoption assistance staff are responsible to complete adoption assistance determinations, issue agreements, and maintain records.

(4) Prior to the finalization of the adoption, and to any issued benefits, a written adoption assistance agreement is completed that:

(a) Is signed by the adoptive parent(s) and the adoption assistance coordinator. The adoption assistance agreement also establishes the child's eligibility for Title XIX medical assistance and Title XX social services. A separate agreement is completed, prior to finalization of the adoption, to include nonrecurring adoption finalization expenses;

Prior Version

(b) States the duration of the agreement;

(c) States the amount of assistance payments (if any);

(d) States that the agreement remains in effect regardless of the adoptive parents and/or the child's state of residence.

(5) The initial effective date of adoption assistance shall be determined by the central office Adoption Unit, taking into consideration the request of the adoptive family and the recommendations of the adoption agency/SOSCF branch. The effective date cannot be prior to the completion of a written assistance agreement, and must be effective no later than the date the adoption is finalized.

(6) An annual review of the circumstances of the family and the needs of the child shall be conducted in all cases except where there is an agreement only. Adoptive parents who continue to need adoption assistance shall provide SOSCF with the information or documentation requested by SOSCF for continuing eligibility to be determined. A new agreement must be completed only if there are any changes in the type and/or the amount of the adoption assistance.

(7) No assistance may be provided to parents if the parents are no longer legally responsible for the support of the child, or the child is no longer receiving care and support from the adoptive parents. Examples include marriage, military enlistment.

(8) If a child receiving adoption assistance is placed in substitute care, adoption assistance may be adjusted, continued, or suspended. If the 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. When the child returns to the care of the parents, adoption assistance may be reinstated or redetermined.

(9) Adoptive parents must immediately inform the agency when a change in circumstances indicates that there is no longer a need for adoption assistance.

(10) The agency may terminate the agreement upon 30 days written notice to adoptive parents when the child is no longer in the home, or the adoptive parents are no longer providing for the child's support, or in the event of legal or legislative action requiring discontinuance of adoption assistance.

(11) An adoption assistance agreement shall automatically terminate, as required by Oregon law, when the child is 18 years old.

Prior Version

(12) An adoption assistance agreement shall be terminated when the child leaves the home with no plan to return as in such situations as marriage, military enlistment, emancipation.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

APPEAL PROCEDURES OF ADOPTION ASSISTANCE

(Reference SOSCF policy I-A.5.2, Contested Case Hearings)

413-130-0120 (1) At any time SOSCF takes action to deny the application, or reduce or terminate payments, recipients of adoption assistance shall be notified of their right to a hearing, except for terminations required by law, termination on the child's 18th birthday, or terminations required by legislative action.

(2) If agreement cannot be reached between SOSCF and the adoptive parents on the amount or type of benefits, the adoptive parents have the right to request a hearing. Excluded from the right of appeal are Special Payments described in 413-130-0090(1).

(3) Requests for a hearing should be addressed to the manager of the SOSCF central Adoptions Unit. The adoption manager will complete the Hearing Request Memo and forward copies to the Adult and Family Services Hearings Unit.

(4) A written report shall be prepared by the adoption assistance coordinator within two weeks of the receipt of a request for a hearing.

(5) Hearings will be conducted by the Adult and Family Services Hearings Unit in compliance with rules governing contested case hearings.

(6) The hearing officer will prepare and distribute the final order in compliance with rules governing contested case hearings.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06

Prior Version

POST FINALIZATION APPLICATIONS FOR ADOPTION ASSISTANCE

413-130-0130 (1) An adoptive parent may request the opportunity to apply for adoption assistance after the adoption has been finalized based on extenuating circumstances such as:

(a) Relevant facts regarding the child, the biological family, or child's background were known, but not shared with adoptive parents prior to legalization;

(b) Adoption assistance was denied, based on an assessment of the financial need of the adoptive family;

(c) Erroneous determination was made by the state that a child was ineligible for assistance;

(d) Failure by the state to advise adoptive parents of a special needs child of the availability of adoption assistance.

(2) Adoptive parents shall submit a written request to the adoption assistance coordinator stating their wish to apply for adoption assistance after an adoption has been legally finalized.

(3) Upon receipt of the written request, SOSCF adoption assistance staff will determine, within thirty days, whether the child meets Title IV-E eligibility requirements.

(a) When it is determined that a child meets Title IV-E eligibility requirements, federal policy requires a fair hearing be held before the state may provide adoption assistance:

(A) Adoptive parents have the responsibility of proving that extenuating circumstances exist. SOSCF may provide corroborating facts to the family or the hearing officer;

(B) The adoption assistance coordinator shall write a summary of the situation and submit a hearing request form and appropriate documentation to the hearing officer within 45 days of receipt of the adoptive parent request for a fair hearing;

(C) The hearing will be conducted by a hearing officer in compliance with rules governing contested case hearings;

Prior Version

(D) If a post legal fair hearing decision finds that a child has been wrongly denied, an adoption assistance agreement may be signed, effective the date of the fair hearing.

(b) When it is determined that a child does not meet Title IV-E eligibility requirements, the SOSCF adoptions manager will review the information submitted by the family and by the adoption assistance coordinator. The manager will decide if extenuating circumstances exist which justify accepting an application from the family.

(A) A written finding will be sent to the adoptive parent within 30 days;

(B) The adoptive parent may appeal the decision by following the appeal process included in these administrative rules.

Statutory Authority: HB2004
Stats. Implemented: ORS418.330-418.340, PL96-272, 99-514, PIQ88-06