

DIVISION 130

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 determined to be ineligible for Title IV-E, will be eligible for 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 foster care or other substitute care; or,

(B) A child removed from his/her parent(s)' home was AFDC eligible (rules in effect July 16, 1996) in the month the removal was initiated or would have been AFDC eligible had the family applied; or,

(C) A child removed from a relative home received AFDC (rules in effect July 16, 1996) in the month court action for the child's removal was initiated, or the child would have been AFDC eligible (rules in effect July 16, 1996) in the relative's home had the relative applied; or,

(D) The child was voluntarily relinquished and found AFDC eligible (rules in effect July 16, 1996) 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 (rules in effect July 16, 1996) 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 (rules in effect July 16, 1996).

(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 signed 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 signing of the court order is necessary; or,

(C) A contrary to the welfare ruling is not required for children receiving SSI or children with a relative who is planning to adopt.

(D) A court order finding made within 180 days of a child voluntarily placed into care, and signed within 6 months of the date the child was last living with the parent.

(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 relative as defined by Title IV-E criteria, (OAR 413-100-0000 through 413-100-0360) within six months prior to the month court proceedings were initiated to review the voluntary placement or relinquishment of a child; or,

(B) Must have lived with a relative as defined by Title IV-E criteria, (OAR 413-100-0000 through 413-100-0360) within six months prior to the month court proceedings leading to the judicial removal of the child were initiated.

(3) To determine the eligibility of children leaving the adoptive home, see 413-130-[4] 0110(8).

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.330-418.340, 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 prospective 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 Permanency and Adoptions 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 and document on the adoption assistance application that efforts were made to place the child without 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 eligibility determinations, negotiate benefits, issue agreements, and maintain records.

(4) Prior to the finalization of adoptions, and to issuance of any benefits, written adoption assistance agreements are completed that:

(a) Are signed by the adoptive parent(s) and the adoption assistance coordinator. The adoption assistance agreements establish the child's monthly eligibility for benefits as well as nonrecurring expenses;

(b) State the duration of the agreement;

(c) State the amount of assistance benefits (if any); and

(A) Specify the amount of the adoption assistance monthly payment (if any) and the nature and amount of any other payments, services, and assistance to be provided, including nonrecurring adoption expenses;

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

(e) State whether the child will receive medical benefits; and

(A) Specify the child's eligibility for Title XIX and Title XX;

(f) State that the adoptive parents have a right to a fair hearing.

(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 signed assistance agreement, and must be effective no later than the date the adoption is finalized.

(6) Annually the SOSCF adoption assistance program shall send a letter to adoptive families, except those with an agreement only, inquiring whether there has been a change in circumstances or need for benefits.

(7) No assistance may be provided to parents if the parents are no longer legally and financially 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) In the case of an adopted child who becomes available again for adoption due to the adoptive parent(s)' relinquishment of the child, the termination of the adoptive parent(s)' parental rights to the child, or the death of the adoptive parent(s), the determination of eligibility of the adopted child for adoption assistance shall remain 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. (This rule is intended to meet the requirements of Sec. 473 [42 USC. 673] (a) (2) (C) of the Social Security Act.)

~~[(8)]~~ (9) If a child receiving adoption assistance benefits is placed in substitute care, adoption assistance benefits 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 benefits suspended, continued, or adjusted to reflect current expenses. When the child returns to the care of the parents, adoption assistance benefits will be renegotiated.

~~[(9)]~~ (10) Adoptive parents must immediately inform the agency when a change in circumstances indicates that there is no longer a need for adoption assistance benefits.

~~[(40)]~~ (11) 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.

~~[(44)]~~ (12) An adoption assistance agreement shall automatically terminate, as required by Oregon law, when the child is 18 years old.

~~[(42)]~~ (13) 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: ORS 418.005

Stats. Implemented: ORS 418.330-418.340, PL96-272, 99-514, PIQ88-06