



February 2011

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Adoption Assistance for Children Adopted From Foster Care



In every State, children with special needs are waiting in foster care for adoptive families. The most recent data suggest that an estimated 115,000 children are available to be adopted from foster care.¹ In the past, the costs of care and services were major obstacles to parents who would

¹ This figure is from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data for 2009. See www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report17.htm

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otherwise adopt and be suitable parents for children from foster care, and many foster children were not placed for adoption due to this barrier.

The Adoption Assistance and Child Welfare Act of 1980² provided the first Federal subsidies to encourage the adoption of children from the nation's foster care system. These subsidies, known as adoption assistance, serve to minimize the financial obstacles to adoption. In addition, other types of assistance often are available to help with medical care or other services. Adoption assistance serves to remove barriers and contribute to an increase in adoption of children with special needs.

Federal Title IV-E Adoption Assistance

Adoption assistance from the Federal Government is administered under the Federal Title IV-E Adoption Assistance Program. Payments to the adoptive parents of an eligible child with special needs can take two forms:

- One-time (nonrecurring) adoption assistance and/or
- Ongoing (recurring) adoption assistance

These funds may be available through State and private agencies for eligible children being adopted from foster care.

² See Information Gateway's website for more information on this Act: www.childwelfare.gov/systemwide/laws_policies/federal/index.cfm?event=federalLegislation.viewLegis&id=22

The term "special needs" has a broad meaning in adoption. To learn more, read Information Gateway's "*Special Needs*" Adoption: What Does It Mean? at www.childwelfare.gov/pubs/factsheets/specialneeds

Eligibility for Federal IV-E Adoption Assistance

With the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008, States and Tribes are required to have two sets of program eligibility criteria for the Title IV-E Adoption Assistance Program. One set of criteria applies to a child who is considered an "applicable child" due to the child's age, length of time in care, or as a sibling of an applicable child. The other criteria are for a child who is considered "not an applicable child" and who, in order to receive Title IV-E Adoption Assistance, must meet the former eligibility requirements.³ The criteria for a child who is not an applicable child will be phased out by 2018. At that point, all children will be considered "applicable."

It is important to understand that figuring out whether or not a child is an applicable or not an applicable child is only the first step to determining whether the child is eligible for title IV-E adoption assistance. Being an applicable child does not mean that a child automatically is eligible for Title IV-E Adoption Assistance.

³ Former eligibility requirements are available in the online *Child Welfare Policy Manual* at www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=32

The title IV-E agency will examine many factors when determining whether a child is eligible to receive Federal adoption assistance. The information below provides an overview of the eligibility criteria for the Federal adoption assistance program. The title IV-E agency can explain the eligibility details. The factors the title IV-E agency will consider include:

1. Whether the child is considered to be an “applicable child” whose eligibility is determined by the revised eligibility criteria, or whether the child is considered to be “not an applicable child” whose eligibility is determined based on the eligibility rules that were in place prior to October 1, 2009
2. Whether the child meets the title IV-E agency’s criteria for special needs
3. Whether the child meets specific eligibility criteria that provide the child a “pathway” into the adoption assistance program. Depending on several factors, the title IV-E agency *may* examine any of the following:
 - a. The legal and financial circumstances under which the child was removed from home
 - b. The manner of removal from the child’s home
 - c. Whether the child is a child of a minor parent who is in title IV-E foster care
 - d. Whether the child was eligible for Title IV-E Adoption Assistance in a prior adoption
 - e. Whether the child meets some or all of the criteria to receive Supplemental Security Income (SSI), which is a program administered by the Social Security Administration
4. Whether the child meets certain citizenship and immigration status requirements
5. Whether the prospective adoptive parents have passed a Federal criminal records check

State Adoption Assistance

State adoption assistance programs provide assistance for children with special needs who are not eligible under the Federal IV-E adoption assistance program. This assistance is funded by State and/or county dollars and is designed for children who are neither TANF- nor SSI-eligible prior to adoption.⁴ Eligibility criteria for these programs vary by State, but State adoption assistance programs generally fall into three categories:

Medical assistance covers some or all of the costs related to a child’s specific medical condition that are not covered by the family’s health insurance, as well as associated therapy, rehabilitation, and special education. (Most States call this type of assistance Medicaid.)

Direct payment assistance refers to direct payments to the adoptive family in order to help meet the special physical, mental, or emotional needs of the child.

⁴ Temporary Assistance to Needy Families (TANF) replaced Aid to Families With Dependent Children (AFDC).

Supplemental adoption assistance varies greatly by State. Some States cover a child's emergency or extraordinary need; less often, assistance consists of repeated payments for services not covered by the medical or direct payments. Each State determines what is an allowable cost. Some States make this available for months, others for 6 months, while still others provide one-time coverage for a specific service.

Information Gateway's website can help you find adoption assistance by State through its annually updated database:

www.childwelfare.gov/adoption/adopt_assistance

Eligibility for State Adoption Assistance and Other Assistance

States sometimes consider the prospective adoptive family's income and resources to determine if the family meets State eligibility requirements, which vary but are linked to:

- Determination of special needs from the Federal adoption assistance law
- Unique aspects of the State adoption assistance program

Arranging Adoption Assistance

When a State agency has determined that an adoptive child has special needs (as defined by that State), the possibility of adoption assistance is discussed with the prospective adoptive parents. States are responsible for

telling prospective adoptive parents about the availability of adoption assistance and eligibility for an adoption tax credit.⁵ Most children registered with agencies as having special needs have already been classified as eligible for adoption assistance.

Once a petition for adoption has been filed, the State makes a final determination of the child's eligibility under title IV-E or the State program. The family applies for the adoption assistance to the State agency through the local office. If approved, an adoption assistance agreement is drawn up between the public agency and the prospective parents, specifying the types of adoption assistance to be provided. This is usually done around the time of placement and *must* be done before finalization of the adoption. Each State has its own regulations for arranging a State-only subsidy, and each State establishes its own procedures to achieve compliance with the Federal title IV-E program in arranging this type of assistance.

Deferred Adoption Assistance

In some States, it is possible for adoptive parents to defer adoption assistance until it is needed to meet the needs of the adopted child. In these cases, parents can elect to receive a Medicaid card only and sign the agreement with the payment level of \$0, which can be raised to meet the needs of the child at a future date if needed. The adoption assistance agreement between the parents and the public agency is written to clearly identify what event(s) would trigger services. For example, a young child with

⁵ Read more about the Fostering Connections to Success and Increasing Adoptions Act of 2008: www.acf.hhs.gov/programs/cb/laws_policies/implementation_foster.htm

a history of abuse and neglect or prenatal substance exposure may not need services at the time of adoption; however, an assistance agreement may be written to allow for services (with documentation from required professionals) if and when significant issues arise and the child needs intensive therapy or perhaps even residential care during the school-age or adolescent years.

Often, psychiatric reports and other documentation are necessary to justify the potential need for a future subsidy.

Appealing an Adoption Assistance Decision

Adoptive parents may appeal the State agency's decision regarding adoption assistance or the adoption assistance amount by using the State's fair hearing and appeals process. If the family is appealing a decision regarding a title IV-E subsidy, the family files an appeal through the local agency that administers title IV-E assistance. The local agency must inform the family about steps in the State fair hearing process. During the process, some families choose to hire an attorney or seek the advice of advocacy organizations for children with special needs. If a family wishes to appeal a decision regarding State adoption assistance, the family may consult with the local agency adoption assistance representative about the steps in the State appeals (or "fair hearing") process. Find more information about the fair hearing process on the Information Gateway website: www.childwelfare.gov/adoption/adopt_assistance/questions.cfm?quest_id=10

Conclusion

Adoption assistance exists to help parents afford the costs associated with raising a child adopted from foster care. By providing financial assistance to these families, the State and Federal subsidy programs minimize the financial barriers to adopting a child from foster care so that more children in care are placed in permanent homes and families.

Adoption assistance payments are not the only type of financial assistance available to adoptive parents. Prospective adoptive parents should explore all potential resources to help make adoption an affordable option.

Information Gateway offers several factsheets that provide this type of information. For example:

- Information on finding out about tax benefits and reimbursement for one-time adoption costs is in *Costs of Adopting*: www.childwelfare.gov/pubs/s_cost/index.cfm
- Information on employer benefits is in *Employer-Provided Adoption Benefits*: www.childwelfare.gov/pubs/f_benefi.cfm

Suggested Citation:

Child Welfare Information Gateway. (2011). *Adoption assistance for children adopted from foster care*. Washington, DC: U.S. Departments of Health and Human Services, Children's Bureau.