

		IV-E 000
Child And Family Services Division IV-E FOSTER CARE	SECTION:	GENERAL
	SUBJECT:	INTRODUCTION

INTRODUCTION:

A foster child is any child in an out of home placement (cannot be a prison) who is under the supervision and control by court order or written agreement of:

- Department of Public Health and Human Services (DPHHS); or
- A private not for profit child placing agency with whom DPHHS has entered into an agreement for licensing compliance purposes, i.e. Casey Family; or
- Tribal Court

The responsible state agency and/or private organization (as described above) must assume full or partial financial responsibility and be given placement and care authority for the child or the child cannot be determined to be Title IV-E eligible. Because of this financial responsibility, it is imperative that all avenues be pursued to obtain federal participation in the foster care funding.

Title IV-E is a section of the Social Security Act that defines the legal and licensure criteria to qualify for the approximate 62% federal share in the foster care payments and 50% share for administrative purposes, 45 Code of Federal Regulations (CFR) 1356 outline the regulations in order to satisfy the requirements under the Act.

The AFDC state plan in effect on July 16, 1996 is the guiding document for the AFDC relatedness or financial eligibility.

The department’s success in meeting the criteria established for federal funding participation (FFP) will determine the amount of funding available for the state foster care budget. For every child whose Title IV-E eligibility cannot be determined, there is a potential loss of 62% in benefits for the child for that foster care episode; in addition to the loss in benefit funds there is a loss of FFP sharing in administrative costs as well.

In order to access the Title IV-E administrative funds and use IV-E funds for maintenance payments, the child must meet the legal, AFDC relatedness (financial) and the licensing requirements. Administrative funds can be claimed for children on runaway during the duration as long as those children meet all other requirements and the agency maintains placement authority. Administrative funds can be claimed for 30 days for children placed in a hospital. No administrative funds may be claimed for children placed on a Trial Home Visit.

This manual has 4 sections. Section (000) includes basic information including the income standards; Section 100 contains the financial requirements; Section 200 the legal requirements and Section 300 the placement requirements.

Public Law 104-193 signed by President Clinton on August 22, 1996 effectively ended the AFDC entitlement program for cash assistance but specifically required states to use the AFDC state plan in effect on July 16, 1996 as the guiding document to establish Title IV-E financial eligibility criteria. You will note the reference used in various sections of this manual is the 1996 AFDC State Plan since that is the document from which the policy is derived. You may find in your research that different regulations may exist in the CFR but policy in this manual is written to the advantage of a child's eligibility within the parameters of the State Plan.

		IV-E 001
Child And Family Services Division	SECTION:	GENERAL
IV-E FOSTER CARE	SUBJECT:	CONFIDENTIALITY

GENERAL RULE

The Department of Public Health & Human Services (DPHHS) may share client information for purposes directly connected with the administration of the public assistance programs with other federal programs and certain entitled entities. Confidential information concerning the applicant or recipient, without notice to or permission of the individual, may be provided and used for the following purposes:

1. Reporting child abuse and neglect to the appropriate agency or authority;
2. Conducting child support activities;
3. Establishing eligibility and administering (including audits, investigations, prosecutions, etc.) for federal programs or federally assisted programs which provide assistance (cash, in-kind, or services) directly to individuals based on need.

Requests for information about current or past recipients which do not meet the above criteria must be submitted in writing to the Central Office. When there is a question about a breach of confidentiality, the Central Office will refer the request to the Office of Legal Affairs.

AGENCY PERSONNEL

Agency personnel who conduct the eligibility process shall be employed and classified in accordance with the employment and classification standard of the State of Montana and the DPHHS.

VOLUNTEERS AND ENTITIES UNDER CONTRACT

Volunteers, consultants or others who are not employed by DPHHS may not determine eligibility; however, they may assist in related activities such as:

- obtaining necessary information; and
- helping applicants complete the application form.

These staff are bound by the same standard of confidentiality and are restricted from disclosing confidential information.

RELEASE TO LAW ENFORCEMENT

The child's current address may be released to a federal, state or local law enforcement officer who can demonstrate that location or apprehension of the child is their official duty and furnishes the child's name and specifies that the child:

1. is fleeing to avoid prosecution, custody or confinement after a conviction for a felony;
2. is violating a condition of parole or probation; or
3. has information necessary for the officer to conduct their official duties.

EMERGENCY SITUATIONS

When information is necessary to provide emergency medical or another critical need, the information must be released. As soon as possible, the person must be notified that the information was released.

RELEASE TO RECIPIENT

The child's representative may review all case file information, which was considered when making the eligibility determination.

RELEASE TO OTHERS

Case file information may be released in situations other than those already described only if the head of household, the spouse or other person authorized by the household provides a written authorization to release information which includes:

1. the date the authorization expires;
2. the name of the person or agency to whom the information will be released;
3. information which can be released
4. a dated signature of the authorizing individual.

		IV-E 002
Child And Family Services Division	SECTION:	GENERAL
IV-E FOSTER CARE	SUBJECT:	MONTHLY INCOME STANDARDS

Reference: AFDC State Plan in effect July 16, 1996

GENERAL RULE;

The tables of standards contain the income amount for filing units according to the number of members in the unit and whether the unit has a shelter obligation.

There are two sets of income standards:

- gross monthly income standard; and
- net monthly income standard.

The filing unit's countable income must be tested against the gross monthly income (GMI) standard and (after specified disregards) the net monthly income (NMI) standard for the specific circumstances. If the net countable income is equal to or less than the net monthly income standard, the child meets the financial criteria for Title IV-E. The child must still meet all of the legal requirements found in Section 200 before they can be determined to be IV-E eligible.

FILING UNIT:

The filing unit size is the number of adults and /or children required to be included when determining IV-E eligibility.

SHELTER OBLIGATION:

A filing unit has a "shelter obligation" if the specified relative is expected to meet any portion of the shelter costs for their place of residence.

Shelter costs are:

1. rent or homeowner's costs to include mortgage payments, taxes, and home insurance;
2. mobile home lot rent;
3. heating fuel;
4. lights and water

The filing unit's eligibility will be based on "without shelter" standards if the shelter obligation is the responsibility of another person(s) or agency (with the exception of government subsidized housing assistance) who is not the specified relative nor considered in any way in the eligibility determination.

GROSS MONTHLY INCOME STANDARDS TO BE USED

<u>No. Of Persons in Household</u>	<u>With Shelter Obligation Per Month</u>	<u>Without Shelter Obligation Per Month</u>
1	616	224
2	823	361
3	1,032	496
4	1,241	629
5	1,449	751
6	1,658	868
7	1,867	984
8	2,074	1,093
9	2,176	1,195
10	2,276	1,382
12	2,451	1,469
13	2,529	1,547
14	2,601	1,621
15	2,673	1,693
16	2,736	1,756

MONTHLY INCOME STANDARDS TO BE USED

<u>No. of Persons in Household</u>	<u>With Shelter Obligation Per Month</u>	<u>Without Shelter Obligation Per Month</u>
1	333	121
2	445	195
3	558	268
4	671	340
5	783	406
6	896	469
7	1,009	532
8	1,121	591
9	1,176	646
10	1,230	700
11	1,278	747
12	1,325	794
13	1,367	836
14	1,406	876
15	1,445	915
16	1,479	949

		IV-E 003
Child And Family Services Division	SECTION:	GENERAL
IV-E FOSTER CARE	SUBJECT:	ACRONYMS AND GLOSSARY

A

ACF - Administration for Children and Families (Federal)

AGREEMENT FOR FOSTER CARE PLACEMENT - A voluntary agreement between the custodian of the child and the department granting the department placement and care authority of the child for a temporary period of time. For IV-E purposes, this agreement cannot continue for more than 30 days (tribal agreements can continue for 180 days). The agreement can be terminated at any time by the parent

ARM - Administrative Rules of Montana

AFFIDAVIT - A written or printed declaration or statement of acts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

ALERT—An action to forewarn the worker to reevaluate the case circumstances.

ALIEN - A person residing in the United States of America who is not a citizen.

ALIEN SPONSOR CONTRIBUTION - The amount of income of the sponsor and his/her spouse that is deemed to the alien, whether available or not.

ALIEN SPONSOR - A person or any public or private agency or organization who executed an affidavit of support (Form I-134) or similar agreement so that an alien could enter the United States.

APPLICATION DATE - The first day of the month in which the petition was filed leading to the removal of the child from the home or the first of the month in which the voluntary placement agreement is signed by the parent(s) who placed the child.

AVAILABLE - For resources, the condition of having unrestricted access to property which can be converted into cash and used for the needs of the filing unit. For income, the fund is actually available and there is a legal interest in a liquidated sum with the legal ability to make such a sum available for support and maintenance.

B

BIA - Bureau of Indian Affairs

BENDEX - SSA's Beneficiary Data Exchange System, which provides the amount of RSDI and Title II benefits paid to people entered on the system. Also, BENDEX provides data on pensions and wages.

BONA FIDE - Good faith; without fraud or deceit.

BUDGETING - Calculating the Title IV-E financial eligibility of the child.

BUSINESS EXPENSES - The costs directly related to the production of income.

C

CFR - Code of Federal Regulations

CSE - Child Support Enforcement

CSED - Child Support Enforcement Division

CWS - Child Welfare Services

CARE AND CONTROL - The physical care, guidance or maintenance of a child or children provided by a responsible parent or caretaker relative.

CARETAKER RELATIVE - A person who meets the definition of a specified relative and is exercising the care and control of the child or children.

CASE - Documents or computer data relating to the child's foster care episode.

CASE FILE - The record maintained for each child during the foster care episode.

CASE MANAGEMENT - A series of steps which assist the case manager to formulate and develop a program for the child or family.

CASE MANAGER - The individual assigned to a family who receives case management services.

CASH VALUE - For resources: the amount that would be received if the resource were sold or converted to cash.

CHILD SUPPORT - Voluntary or court ordered payment by an absent parent for the purpose of meeting the needs of the child or children.

COLLECTIBLES—Any item of value which may or may not be part of a collection, such as paintings, coins, stamps, etc.

COMMINGLED - Countable and exempt funds in a bank, Bureau of Indian Affairs managed account, or other account which are combined.

COMPENSATION - Money, real or personal property, food, shelter or services received by an individual in exchange for goods or services provided by that individual.

COMPLETE THE PROGRAM - An 18 year old foster care child enrolled in high school or an equivalency program is considered to have completed the program if the institution has awarded a diploma or certificate of completion.

CONFIDENTIAL INFORMATION - Family or child information that may only be shared for purposes of establishing eligibility, determining amount of assistance, and providing services, with related federally mandated and assisted programs and agencies under contract to the Department or operating with a Memorandum of Understanding.

COUNTABLE INCOME - The total of earned and unearned income, not excluded by policy, received or anticipated to be received by the filing unit for the month of application.

CURRENT MARKET VALUE (CMV) - The amount for which the property can be expected to sell on the open market in the community.

CURRENTLY AVAILABLE PROPERTY RESOURCES - Assets which a family or child has a legal right and reasonable practical ability to liquidate.

CUSTODIAL PARENT - Natural/Adoptive parent who has the legal responsibility for providing maintenance, physical care and guidance of the child or children.

D

DOR - Department of Revenue

DPHHS - Department of Public Health and Human Services

DEEMING - Considering a portion of income and resources of one (1) person as the income and resources of a second person, whether or not actually available.

DEPENDENT CHILD - Means a child:

- under age 18 or an 18 year old who is a full-time secondary school student or in the equivalent level of vocation or technical training and who may reasonably be expected to complete the program in or before the month of his/her 19th birthday, and is living with a specified relative.

DEPRIVATION - The ongoing lack of parental care and control of a child because of death, continued absence from the home, mental or physical incapacity or unemployment of the parents. Deprivation is required to exist from only one birth or adoptive parent. Example: If father does not live in the home, deprivation is absent parent. If father is a trucker and absent for periods of time due to his work schedule, this is not considered an absent parent; evaluate for unemployment deprivation.

DISABILITY - The physical or mental impairment of an individual which may be either temporary or permanent.

DISREGARD - A dollar amount designated for a specific purpose (work expense, child care expense) which is deducted from the filing unit's income.

DOCUMENT - Used as a noun, indicates a written record of the circumstances of an event or fact. Used as a verb, indicates the act of entering in the case file actual proof or statement of proof that the contents of the record are accurate.

E

EA - Emergency Assistance is TANF funds used by CFSD as approved in the AFDC state plan in effect in 1996.

EARNED INCOME - Employee payments received in cash or in-kind for wages, tips, commissions, or net profit from activities in which the individual is engaged as self-employed; the gross income before deductions for personal or employment expenses or garnishments.

EARNED INCOME TAX CREDIT (EITC) - An amount of money which has been either deducted from the taxes owed or paid as a refund resulting from filing a Form 1040 or 1040A Tax Return for a calendar year. EITC is disregarded as income and as a resource in the month following receipt.

ENCUMBRANCE - A claim or legal debt(s) against a resource which is supported by a written document and which must be paid when the resource is sold.

ENUMERATION - The act of assigning a Social Security Number (SSN).

EPSDT - Early and Periodic Screening, Diagnosis and Treatment services for individuals under age twenty-one (21) covered by Medicaid.

EQUITY VALUE - The current market value less any encumbrances (legal debts such as mortgages, loans, penalties, cost of sale, etc.) against the property as of the date of evaluation.

EVIDENCE - Something that furnishes proof (a document or a statement attesting to the validity of a particular event).

F

FC - Foster Care

FICA - Federal Insurance Compensation Act

FAIR MARKET VALUE (FMV) - -The amount of money which the sale of property would bring on the open market in the community where the property is located.

FILING UNIT - Those individuals whose income and resources must be considered in eligibility determination.

IV-E ELIGIBLE - A status in which CFSD can obtain administrative federal participation for a child who meets all of the financial and legal requirements. In order to receive federal participation for maintenance payments, the child must also be placed in a fully licensed foster care placement.

FOSTER CARE - Full-time, 24 hour care of a child in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction and, if necessary, treatment to children who are removed from or without the care and supervision of their parents or guardian.

FOSTER HOME - A home in which substitute care is provided for one to six children in a family setting.

FULL-TIME STUDENT - A dependent child attending school a minimum of six (6) hours a day or the number of hours the institution states is considered full-time.

G

GARNISHMENT - A legal action to deduct a specified amount of money from an employee's wages or unemployment compensation to satisfy a creditor.

GENERAL EQUIVALENCY DIPLOMA (GED) - Training provided to individuals who require a high school education or its equivalent to obtain appropriate employment. The training prepares the individual for the GED test for a high school equivalency certificate.

GOOD CAUSE - An acceptable reason for an individual's action which overrides the penalty of that action and applies to termination or refusal of employment or cooperation with child support.

GROSS EARNED INCOME - The total money the person is entitled to receive prior to any deductions including garnishment.

GROSS MONTHLY INCOME (GMI) STANDARDS - The levels of gross income for each filing unit based on size and circumstances which cannot be exceeded if the child is to be determined financially IV-E eligible.

GROUP HOME - Facility offering substitute care of 7 to 12 children / youth.

H

HOME - The principal place of residence; the family setting in which the child lives with a caretaker relative who provides the day-to-day care and control of the child. For resource purposes: a home is the current place of residence which is owned by the caretaker relative and which includes any building and the land upon which it is located, the land that appertains to the home and all the buildings and/or mobile homes located thereon.

HOUSEHOLD FURNISHINGS - Furniture, appliances, clothing and personal items owned by the filing unit.

!

IEVS - Income and Eligibility Verification System

IIM - Individual Indian Monies

INA - Immigration and Naturalization Act

INS - Immigration and Naturalization Service

IRS - Internal Revenue Service

INCAPACITY - A physical or mental defect, illness or impairment which is sufficiently serious as to eliminate or substantially reduce the parent's ability to care for or support the child(ren) for a period expected to last at least thirty (30) days.

INCARCERATION - The condition of being in prison or city/county jail, or juvenile facility.

INCOME - Money received from any source.

INCOME-PRODUCING PROPERTY - Property that is, in and of itself, producing income. For example, rental property is considered income-producing.

INDIAN LAND - Property owned jointly by the tribe or property which can be sold only with the permission of other individuals, the tribe or the Bureau of Indian Affairs.

INDIVIDUAL RETIREMENT ACCOUNT (IRA) - A tax-deferred pension or plan which sets aside money now for the needs of the person after retirement.

INELIGIBLE for IV-E - A status which represents a child for whom CFSD cannot claim administrative or cost-of-care reimbursement as the child does not meet one (1) or more of the specified financial, legal or licensure requirements.

INITIAL DETERMINATION - The initial assessment of a child's financial eligibility for IV-E foster care.

IN-KIND INCOME - The receipt of good(s) or service(s) instead of money for the activities of an individual which must be evaluated to determine a value. This value is considered earned income and must be counted in the determination of eligibility.

INMATE OF A PUBLIC INSTITUTION - An individual who is involuntarily incarcerated in a prison, county, city, tribal jail or juvenile facility until permanent release, bail, probation or parole. An individual released from prison or jail due to a medical emergency who would otherwise be incarcerated but for the medical emergency is considered to be an inmate of a public institution unless he is admitted to a hospital, nursing facility, institution for mental disease or intermediate care facility for at least 24 hours or longer.

INSTITUTION - An establishment that furnishes (in single or multiple facilities) food, shelter and treatment or services to four (4) or more persons who are unrelated to the proprietor and provides some treatment or service which meets some need beyond the basic provision of food and shelter.

INSURANCE SETTLEMENTS - The money received by a person or persons from a company for damage of property or person. Insurance payments to repair or replace damaged property are considered as excluded resources and are excluded for three months. Insurance payments for personal injuries are considered as income.

J

JOINTLY OWNED PROPERTY - Presumed to be owned in equal shares by each of the persons holding a legal interest, unless otherwise specified in a legal document such as a deed or divorce decree. A court-ordered right of ownership takes precedence over any contrary verbal claim or stipulation on any document.

K

KEOGH- -A tax deferred pension or plan for a self-employed individual to set aside money now for the needs of the individual after retirement.

KINSHIP PROVIDER—A licensed or unlicensed home in which substitute care is provided by relatives, members of the child/family's tribe, godparents, or stepparents or by whomever a child, child's parents and family ascribe a family relationship and in which the child has had a significant emotional tie to the provider that existed prior to the agency's involvement with the child/family.

KNOWLEDGEABLE SOURCE--A person who has a considerable degree of familiarity of an individual or subject which has been gained through experience of or by association with the individual or subject; a person who is professionally aware of the value of the property in the community.

L

LIEAP- -Low Income Energy Assistance Program

LEGAL RECORDS- -Documents of transactions conforming to or permitted by law.

LOAN- -A transaction in which money is given to another and must be repaid.

LUMP SUM PAYMENT- -Earned or unearned nonrecurring income considered as a resource in the month received.

M

MA- -Medical Assistance

MCA- -Montana Codes Annotated

MAINTENANCE PAYMENT - A payment made on behalf of a child to cover 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 a child and reasonable travel for a child's visit with family or other caretakers.

MEDICAID- -The program for the payment of covered medical expenses for persons who are eligible.

MINOR- -An individual who is under the legal age of eighteen (18).

MISTICS - The electronic database containing the unemployment and wage information for Montana wage earners. This system does not contain information on federal wage earners or individuals who are paid in cash but the wage information is not reported by the employer.

MONTH RECEIVED- -The benefit month in which the money may be available to the applicant or participant or in which the person will receive the money in-hand. SSA and SSI payments are exceptions to this definition, when the payment is made at the end of a month (usually because of holiday mail) for use during the following month.

N

NADA- -National Automobile Dealers Association

NET INCOME- -Includes all non-excluded earned income, less applicable disregards, and all non-excluded unearned income.

NET MONTHLY INCOME (NMI) STANDARDS- -(Need Standard) - Levels of net countable income for each size filing unit which cannot be exceeded if the unit is to be financially eligible.

NET PROFIT- -Gross revenue less allowable business expenses.

O

OPA- -Office of Public Assistance

P

PJUSTICE- -Department of Justice/Motor Vehicles

PAYMENT- -The act of giving a check or warrant to the payee or the legal representative.

PERJURY- -A willful false statement of a material fact; swearing to what is untrue; or, incompletely answering all questions under oath.

PERMANENT LEGAL CUSTODY- -Grants permanent responsibility for care, custody and control of the child to a person or agency.

PERSONAL PROPERTY- -All things owned or possessed by the assistance unit.

PLACING WORKER - A child protection specialist, juvenile parole officer, contracted IV-E tribal child protection specialist or probation officer responsible for placing a child into foster care.

PROGRAM REQUIREMENT- -Specifications as to how eligibility factors are to be met.

PROPERTY RESOURCES- -Real, personal, tangible or intangible assets owned by the filing unit members. Property resources include, but are not limited to real property, vehicles, mobile homes, cash, stocks, bonds, savings accounts, the cash value of life insurance, and recreational equipment.

PUBLIC (NON-MEDICAL) INSTITUTION- -An institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

PUTATIVE- -Commonly accepted or supposed, as in putative father.

Q

QUALIFIED ALIEN - An alien legally admitted to the US whose status may include refugee, asylee, deportation withheld, parolee, conditional entry, Cuban/Haitian, Amerasian, battered spouse or child, Canadian Indians, enrolled Indians, or aliens lawfully admitted for permanent residence.

R

REDETERMINATION – The reassessment of a child’s financial and legal eligibility and whether or not deprivation still exists in the specified caretaker relative’s home

REAL PROPERTY- -Land and buildings or immovable objects permanently attached thereto.

REFUGEE- -An alien who has been admitted to the United States under the classification of refugee. This person is required to carry a Form I-94 endorsed to show refugee status. Employment is permitted.

REMOVAL FROM THE HOME - The removal of a child may be either a physical or a constructive removal. A physical removal is when the child is physically removed from the home in which the child is living at the time the petition is filed or the parental agreement is signed. A constructive removal is when the child remains in the home in which the child is living but the custody is removed from a party not living in the home. In either situation the child must be living or have lived with a specified relative within 6 months of the petition filing date or the parental agreement.

REASONABLE EFFORTS - (Standard) Only the services and activities that prevent removal of the child from his/her home or affect the reunification plan are the services/activities to be evaluated in determining the reasonable efforts findings.

RESIDENT- -A person who states intent to reside in Montana.

RESOURCES- -All real and personal property owned by a person.

S

SDX- -State Data Exchange

SEOG- -Student Education Opportunity Grant

SSA- -Social Security Administration

SSI- -Supplemental Security Income

SSDIB- -Social Security Disability Insurance Benefits

SSIG- -State Student Incentive Grant

SSN- -Social Security Number

SHELTER COSTS- -The amount of money required to provide housing (rent, mortgage payments, motel rates, etc.) and/or utilities (water, sewer, heat, electricity).

SPECIALIZED FOSTER HOME - A licensed foster home in which care and treatment is provided for children who have problems that cannot be adequately addressed in regular foster care.

SPECIFIED RELATIVE/SPECIFIED CARETAKER RELATIVE- -One of the following individuals living with the dependent child:

- Father, mother, grandfather, grandmother, brother, sister, uncle, aunt, first cousin, nephew, niece; or persons of preceding generations denoted by prefixes of "grand", or "great"; first cousin once removed; or
- Stepmother, stepfather, stepbrother and stepsister;
- One who legally adopts a child or his parent, as well as the natural and other legally adopted children of such persons; and
- Spouses of any person mentioned above even though the marriage may be terminated by death or divorce.

STEPPARENT- -The spouse of the natural or adoptive child's parent.

STRIKE- -Any concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, and any concerted slow-down or other concerted interruption of operations by employees.

STUDENT- -A dependent child attending school.

I

TANF- -Temporary Assistance for Needy Families

TAX YEAR- -The year on which the income taxes are based; usually the calendar year.

TEAMS- -The Economic Assistance Management System, which assists in the determination of eligibility and/or grant.

TEMPORARY LEGAL CUSTODY - The legal status created by an order of the court that gives a person or agency the right and responsibility for the care, custody and control of a child on a temporary basis.

TERMINATION- -To close a case and/or remove an individual from program eligibility.

TERMINATION OF PARENTAL RIGHTS—The legal rights of legal parents are terminated by a court of competent jurisdiction.

TRANSFER- -The act of moving the right, title or interest in property from one (1) person to another by sale, gift or exchange. Also includes transfers to joint tenancy or to tenancy in common. In addition to selling and giving away property, the transfer of property rule applies to actions such as establishing a trust, contributing to a charity or other organization, removing one's name from a joint bank account, forgiving a debt without obtaining fair market value or decreasing the extent of ownership interest in any resource.

TRANSFER, DATE OF- -The date delivery is made on a valid transfer.

TRIAL HOME VISIT- - A trial home visit is a preliminary step to closing the foster care episode for a child. The child remains in the custody of CFSD for the duration of the trial home visit up to 6 months (180 days) unless the visit is specifically ordered by the court for a longer period of time. If the visit is unsuccessful and the child is again placed in foster care within the 6 months (180 days) or within the time specified by the judge's order, it is not considered a new removal because the department or tribe has continued to have placement and care authority for the duration of the trial home visit.

TRUST- -A property interest held by one person for the benefit of another.

TRUSTEE- -The person(s) given the authority, by a written contract, to manage money set up in a trust.

U

UC or UIB--Unemployment Compensation or Unemployment Insurance Benefits.

UNEARNED INCOME- -All money received that is not earned by providing goods or services. Unearned income includes, but is not limited to gifts, Social Security Income benefits, Veterans' benefits, Workers' Compensation payments, Unemployment Compensation payments, and returns from capital investments which the individual himself is not actively engaged.

UNPAID PRINCIPAL- -The amount which remains to be paid on an agreement to buy or sell.

UTILITIES- -The services provided for water, sewer, electricity, and heating fuel.

V,W,X, Y, Z

VOLUNTARY PLACEMENT AGREEMENT - A voluntary agreement between the custodian of the child and the department granting the department placement and care authority of the child for a temporary period of time. For IV-E purposes, this agreement cannot continue for more than 30 days (tribal agreements can continue for 180 days). The agreement can be terminated at any time by the parent

		IV-E 100
Child And Family Services Division IV-E FOSTER CARE	SECTION:	FINANCIAL
	SUBJECT:	GENERAL REQUIREMENTS

References: AFDC State Plan effective July 16, 1996

GENERAL RULE

In order to access IV-E benefits, a determination must be made whenever a child is removed from the home via legal proceedings or parental agreement.

Department staff shall not discriminate against any child in any aspect of the foster care program for reasons of race, color, national origin, age, religion, sex, political beliefs, or handicap.

DATE OF APPLICATION/ELIGIBILITY

The “application date” and the month, for which eligibility is determined, is the first day of the month in which the petition was filed leading to the removal of the child from the home or the first of the month in which the voluntary placement agreement is signed by the parent(s) who placed the child and the agency representative.

The voluntary placement agreement is not valid until the date all parties sign the agreement.

Example: Child was removed from the home on April 15th. Parents signed the voluntary placement agreement on April 5th. Financial eligibility must exist for the month of April.

Example: The petition was filed on March 29th, child was removed April 5th. Financial eligibility must exist for March.

AFDC RELATEDNESS/FINANCIAL ELIGIBILITY REQUIREMENTS

If any of the information below is available through the Human and Community Services county office, copies may be requested to be FAXED in order to facilitate the eligibility process. **It is important to follow through on this request because of the financial implications (page 1 of Section 000) to the department if the IV-E eligibility process is not completed.** The child must:

- be living with a specified caretaker relative, this is a person who meets the definition found on page 12 of Section 003, and meets all IV-E financial criteria or would meet the criteria if application is made for the month the parental agreement is signed or the court proceedings are initiated which cause the removal of the child; or
- be living with the specified relative within 6 months prior to the date the voluntary placement agreement is signed by the parent or the judicial proceedings are initiated causing the removal of the child; and

- have been eligible in the month the court proceeding were initiated or the voluntary placement agreement was signed if the child had been living with them; or
- be living in a foster family home or child care institution with their IV-E eligible parent whose costs are covered by the IV-E foster maintenance payments being made with respect to the child's minor (IV-E) parent. Verification of minor parent's eligibility for IV-E must be placed in the child's file.
- be less than 18; or
- if 18, the youth must be anticipated to complete a program or graduate from a secondary school by the month of their 19th birthday. The eligibility file must contain hard copy verification of estimated school graduation or program completion and age verification such as birth certificates, baptismal certificates or school records.
- be a US Citizen or Qualified Alien. The file must contain hard copy verification, which may include birth certificates, baptismal certificates or school records.
- be deprived of parental support. Copies of documentation verifying deprivation either by death, physical/mental incapacity, absence, or unemployment (two parent family) must be in the file.

CASE FILES

The eligibility case (compliance) files are required to contain all of the financial, legal and licensing information used to conclude that the child is either IV-E eligible or not IV-E eligible. The files will be managed and located in the IV-E eligibility unit and must also contain the ongoing court orders and other documents used to determine ongoing eligibility and to substantiate any IV-E payments.

- **The file must contain:**
- Income verification from the source of the income. This includes verification of deemer's income, and any unearned income such as child support. TEAMS or MISTIC screens may be copied for verification.
- Resource information verifying parent's statement that countable resources do not exceed \$10,000.00. Verification can include print copies from PJUSTICE, stock certificates, safety deposit boxes etc. If there is no parent statement or information on PJUSTICE it is assumed there are no resources.
- Social Security Number (SSN) is not required for IV-E eligibility but is required to access Medicaid. TEAMS verified SSN may be copied from SSDO screen and placed in the child's file.
- School attendance must be verified if the youth is 18 and is still in school. A Youth Agreement for continued foster care must be signed prior to the child's 18th birthday and placed in the file.
- A letter from the school stating that the child will graduate or complete their course of study prior to their 19th birth day must be in the file. SSI eligibility can be verified with a copy of SDI1 TEAMS screen or documentation from the SOLQ screen.
- Copies of the DETL screens (IV-E determinations screen which calculate the NMI and GMI), statements supporting payments to dependent members out of the household, copies of child support/alimony orders for members out of the household,

copies of income taxes claiming dependents and any other verification used to explain the calculations.

- All subsequent redeterminations on and their DETL screens as well as all financial documentation to back up the calculations.
- All of the legal requirements of Section 200.

CHILD SUPPORT

A child support referral of both parents unless parental rights have been terminated or good cause exists for each parent is required for all IV-E eligible children. The placing worker will make the electronic referral as part of the case management once the IV-E eligibility is determined. If the child is placed in a Trial Home visit, the Child Support Enforcement agency will close the current child support case although they will continue to collect arrearages. If the child goes back into care, a new referral must be made.

Good Cause Criteria: Good cause may be claimed provided it may be "against the best interests of the child" because of:

- Physical or emotional harm to the child or caretaker relative; or
- At least one of the following circumstances exists:
 - ❖ The child for whom support is sought was conceived as a result of incest or forcible rape;
 - ❖ Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or
 - ❖ The applicant or recipient is currently being assisted by a public or licensed private social services agency to resolve the issue of whether to keep the child or relinquish him/her for adoption, and the discussions have not gone on for more than three (3) months.

In order to claim good cause, corroborative evidence must be provided regarding the circumstances upon which it is based and corroboration must have been made within 20 days of the date of the claim. The corroborative evidence may be one of the following:

- ❖ Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;
- ❖ Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
- ❖ Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;
- ❖ Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child;
- ❖ Written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child;
- ❖ A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption;
- ❖ Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances that provide the basis for the good cause claim.

DETERMINING GOOD CAUSE: The CFS placing worker or tribal IV-E will determine that pursuing cooperation may be "against the best interests of the child" based on the evidence provided on behalf of the child. The determination will be made within thirty (30) days from the day the claim is made. The following guidelines are provided to assist the placing worker or eligibility staff in the determination process. Consideration will be given to the following:

- The present emotional state of the child subject to emotional harm;
- The emotional health history of the child;
- Intensity and probable duration of the emotional impairment;

The final decision will be issued in writing and placed in the child's file.

EFFECTIVE DATE

In addition to verifying the child meets the financial criteria, the child must also meet all of the legal requirements (Section 200) and licensing requirements before any IV-E funds can be expended on the child's behalf. The child becomes eligible for IV-E benefits effective the first day of the month in which all of the eligibility criteria (financial, licensing and legal) are met.

ONE CHILD/ ONE CASE

Each child determined IV-E eligible or ineligible must have his own number and case file containing all of the required information used to determine the child's eligibility or to document the reason the child is ineligible. In instances where several children are removed at the same time, copies of the court documents must be made for each child's case file in order to satisfy the legal requirements. If siblings are removed at separate times, each removal must be sanctioned by a court order that is specific to the child being removed. A child removed later cannot be added to an existing order involving siblings removed at a prior date. Reasonable efforts must be specific to the child being removed and the judicial determination must meet the 60 day requirement. Income and resources for one sibling cannot be counted against another for ongoing financial eligibility.

The only exception to the "one case/one child" is the minor parent (a foster care youth) who is placed in the same foster care home as their child. The child is not the subject of abuse and neglect nor does the state have placement and care authority over the child. This child will not have a foster care case file so information regarding the child will be contained in the minor parent's foster care case file. The Title IV-E payment will include the needs of the parent as well as the child. The amount is negotiated by the worker and the foster care provider and the payment rate will be provided by the placing worker.

INITIAL DETERMINATION PROCESS

1. Enter the household/filing unit, specified relative information, financial information and resources on the appropriate DETL screen.
You will need to request copies of the birth certificate and any other documents necessary to prove this relationship if the child was not born in Montana. The file will need copies of the petition (this refers to the petition filed with the court for a removal order, emergency protective order or any other order in which the judge sanctions the removal of the child), court orders (temporary investigative orders, temporary legal custody, permanent legal custody or tribal orders which serve a similar function), affidavits (reports to the court) and permanency hearings if the case requires a 30 day hearing. If the information cannot be located through the state systems, copies of required information should be requested from the placing worker. **If the information is not received in a timely manner, the IVEL screen will continue to show a pending span until all required information is provided and entered into the system. Continue to pursue the required information in order to finalize the IV-E determination process.**
2. Research TEAMS to determine if the child was an “in” participant in a case with the specified relative from whom the child was removed for the month in which the petition (leading to the removal of the child) was filed or the voluntary placement agreement was signed. If a case is found, follow the instruction in Section 104 and 105 to review all income and resource data to insure that the income, less the appropriate disregards, meets the income criteria. Insure that resources do not exceed \$10,000.00.
3. If no case is found on TEAMS, search by parent’s SSN on MISTICS for reported income. Refer to Section 104 for guidance.
4. If no case is found on TEAMS, review PJUSTICE for vehicle resources. If no current vehicle data is found on PJUSTICE and there is no parent statement, we assume there are no resources. Do not count vehicles owned by adults whose income will be deemed or adults who are not the birth or adoptive parent. Copy screens as verification of vehicle resource.
5. IV-E eligibility will be denied and a denied span will be created on the IVEL screen if the household fails the income, resources or specified relative criteria. **All of the financial eligibility factors must exist for the month in which the petition was filed that lead to the removal of the child or the month in which the voluntary placement agreement was signed. Place the information or a copy of the information, that verifies your decision that the child is not IV-E eligible, in the child’s case file. This must include the DETL screens and verifications for this child.**
6. If the initial order for the child that sanctions the removal does not meet the required language in the court order IV-E eligibility will be denied when the CO enters the information on the CREI screen (removal screen). The initial order must include “contrary to the welfare of the child” or” best interests of the child” and give placement and care authority to the department or an entity with a IV-E agreement with the department. If a determination, that reasonable efforts were made or not required to prevent the removal, was not made within 60 days of the removal as outlined in Section

200 IV-E eligibility will be denied when the CO enters this information on the CREI screen. The IVEL will create a denied span after the nightly batch process runs. The reason for the denial will also populate on IVEL. Place copies of all documents that verify the child is ineligible for IV-E in the child's case file.

7. Often hearings are not held because of conflicts with the courts and the hearing is continued to a future date. Continuance orders do not substitute for court orders since there can be no order if there was no court hearing. If a permanency hearing is scheduled for October 1st and the hearing is continued until November 15th, it is possible that the 30 day or 12 month requirement will not be met in order to continue to use Title IV-E funds for the foster care payment. Information concerning permanency hearings are entered on the PPHL screen. The system will suspended IV-E eligibility on the 1st day of the month after the month that the permanency hearing was due and IVEL suspended span will be created and PPH will be the reason. Once the hearing is held, the CO will review the permanency order for "reasonable efforts to finalize the permanency plan" findings and enter this information on the PPHL screen. After the nightly batch process runs, the span on IVEL will approve to the 1st day of the month in which all eligibility requirements for IV-E have been met.
8. For specific information and explanations of the various court documents review Section 200 of this manual.

		IV-E 101
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	HOUSEHOLD

Reference: AFDC State Plan in effect on July 16, 1996

To be determined IV-E eligible, a child must live or have lived with a specified relative within 6 months of the date the petition sanctioning the removal is filed with a court of competent jurisdiction or the parental agreement is signed; must be deprived of parental support, must meet the gross and net income standards and meet the legal requirements outlined in Section 200.

SPECIFIED RELATIVE

A child's specified relative may be any relation by blood, marriage or adoption who is within the fifth degree of kinship to him/her. A specified caretaker relative may be one of the following:

- Father, mother, grandfather, grandmother, brother, sister, uncle, aunt, first cousin, nephew, niece; or
- Stepfather, stepmother, stepbrother, stepsister; or
- Great grandparent/aunt/uncle, great-great grandparent/aunt/uncle, great-great-great grandparent/aunt/uncle; or
- First cousin once removed (Example: The child's aunt is Pat; Pat's child is John (cousin); John's child is Bill. Bill is the child's first cousin once removed) or
- One who legally adopts the child or his/her parent as well as the natural and other legally adopted children, and other relatives of the adoptive parents; or
- Spouses of anyone named in the above groups even after the marriage is terminated by death or divorce.

To establish the "living with" requirement the CO needs to review information gathered by the placing worker about the family (report to the court). The requirement is met if the relative the child is living with is responsible for the supervision, discipline, nurturing, meal preparation, purchase and care of clothing, helping with school work, providing transportation, assigning chores, teaching common tasks and values and monitoring the child's health needs

The child is considered to be "living with" his relative even though:

- The child is under the jurisdiction of the court (i.e., receiving probation services or protective supervision); or
- The child is temporarily hospitalized for medical treatment which may include in-patient psychiatric services; or
- The child is not currently living with a specified caretaker relative but has lived with the specified caretaker relative within 6 months of the parental agreement or the date the petition was filed leading to the removal of the child; or

- The child is away from home for the purpose of attending school, including boarding school.

EXAMPLES:

- (1) Tom leaves his son Teddy with his neighbor for the weekend. Two months later Tom has not returned. The neighbor contacts CFSD and explains the situation. CFSD petitions for temporary custody and is granted responsibility for placement and care. The neighbor's home is licensed for foster care and CFSD leaves Teddy there. Since Teddy had been living with his father (specified relative) within 6 months of the date the petition was filed, this satisfies the requirement of "living with a specified caretaker relative". Father's household income and resources will be assessed.
- (2) Jane leaves her daughter Lisa with her grandmother and does not return. Grandmother keeps Lisa for 7 months but then requests she be removed and placed in foster care. CFSD is granted responsibility for placement and care. Although the court removes custody from Jane, Lisa is physically removed from her grandmother's home and is placed in licensed foster care. Lisa can be determined eligible for IV-E because she was living with a specified caretaker relative, her grandmother, at the time the petition was filed. The living with requirement has been met. The filing unit would need to include the last parent that Lisa lived with and their income for the month that the petition was filed.
- (3) Laura and her daughter Sally live in the home of the Laura's mother. Laura leaves the home and does not return. Four months later, Sally's grandmother contacts CFSD. The court gives CFSD responsibility for placement and care. The grandmother is licensed for foster care and Sally remains there. Since the child was living with a specified caretaker relative within 6 months of the date the petition was filed, the IV-E "living with" criteria is met. Only the child's income and resources will be assessed since grandparents are not responsible for their grandchildren.
- (4) A child, whose grandmother has been her legal guardian for years, is removed from grandmother's home. The "living with" criteria is met because grandmother is a specified caretaker relative. Only the child's income and resources would be assessed since guardians are not financially responsible for their wards.
- (5) Infant is legally removed while mother is still in the hospital after giving birth. Child is presumed to be living with the mother even though the child has never left the hospital. Infant, mother and other members of mother's household who meet the definition of required filing unit members (this includes siblings and the father of the child) must be evaluated for income and resources.

SSI:

Children who are receiving SSI benefits at the time of placement may be determined to be IV-E eligible. All financial, legal and licensing requirements must be met to be determined IV-E eligible and the placement must meet the requirements of Section 300 to use IV-E funds for placement costs. The child is considered to be dually eligible and the child must maintain the resource limit of \$2,000.00 or they lose their eligibility for SSI benefits. Children may also be determined SSI eligible after the IV-E determination and are subject to the same limitations for resources. The child will continue to receive SSI Medicaid whether or not the child is IV-E eligible however if the SSI child is placed in a high cost of care placement and is IV-E eligible, SSI can be suspended and IV-E funds can be used for foster care payments. In this case the SSI medicaid will be closed and the CO will open IV-E foster care medicaid for the duration the child remains IV-E eligible and in this placement. Once SSI payments resume, foster care medicaid will be closed and SSI medicaid will be opened.

DEPRIVATION:

A child must be deprived of parental support or care due to death, absence from the home, physical or mental incapacity, unemployment as defined in this section or had the parental rights terminated. If the child was denied IV-E because there was no deprivation, this child cannot later become eligible when parental rights are terminated.

Deprivation must exist in the month the petition is filed to remove the child or the month in which the voluntary placement agreement was signed in order for the initial determination of IV-E eligibility. Once deprivation is established, it continues throughout the foster care episode and does not need to be redetermined.

DEATH OF A PARENT: If either parent of a child is deceased, the child is deprived of parental support or care, and may, if (s) he is in need and otherwise eligible, receive IV-E foster care payments. Place verification of death and the relationship of the deceased to the foster care child in the child's file. A death certificate is the primary verification. When a death certificate is not available, other sources of verification may be used such as:

- Retirement, Survivors, and Disability Insurance (RSDI) Record of Lump Sum Death Payment or Survivor's Benefit Notice;
- Veterans Administration Death Payment Correspondence;
- Insurance Company Death Settlement Correspondence;
- Veterans Administration Record of Widow's or Survivor's Benefits;
- Bureau of Vital Statistics; Newspaper Death Notice;
- Social Security Records; Hospital Records; Institutional Records or
- Military Service Records

PHYSICAL OR MENTAL INCAPACITY OF A PARENT: Incapacity of a parent exists when a parent has a physical or mental defect, illness, or impairment. It must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to provide support or care. The existence of incapacity must be:

- Supported by a physicians diagnosis ; AND

- Expected to last for a period of at least thirty (30) days according to the physician's prognosis.

This information can be provided by a medical professional working under the general authority or guidance of a psychiatrist or physician if the psychiatrist or physician is willing to sign the diagnosis. Place a copy of the medical statements verifying the incapacity and estimating the length of time the incapacity is anticipated to last in the child's file.

Examples of "permanent" incapacitated status are:

- A parent who receives SSI or Social Security disability/blindness payments or
- A parent who is sixty-five (65) years of age or over. Place verification of the parent's age in the child's file.

ABSENCE OF A PARENT: Is defined as a parent who does not live in the same home as the child but whose absence is not due solely because of active duty in the uniformed services of the United States. A convicted felon living in prison or a pre-release is considered an absent parent.

TERMINATED PARENTAL RIGHTS: A child is considered deprived of parental support if a parent's rights are terminated by a court which determines that remaining in the home would be detrimental to the child's well being.

UNEMPLOYED PARENT: A child is considered deprived of parental support if the two (2) parent family's income meets the family size GMI and NMI for the eligibility month.

FILING UNIT: Once it is established that the child is living or has lived with a specified relative within the previous 6 months and that deprivation exists, the financial eligibility of the filing unit must be determined. To do this, the income and resources of the specified relative's household in which (s)he was living at the time the petition is filed or the parental agreement is signed must be assessed. This household unit is called the filing unit and must include the foster child, and if otherwise eligible, any natural or adoptive parent and any blood-related or adopted brother or sister who are under age 19, living in the same household. Household members related to the child that are receiving SSI are counted in the filing unit; however the SSI income is not counted. Verify that each eligible child included in the filing unit is actually:

- Related to the specified relative, and
- Living with the specified relative; or
- Lived with a specified relative within 6 months of the parental agreement or the initiation of the court proceedings leading to the removal of the child.

The primary verification for relationship is the birth certificate/ adoption papers or baptismal certificate. Utilize other documents if necessary.

HOUSEHOLD MEMBERS NOT INCLUDED: The following household members whose income and resources **are not to be included** when determining eligibility or household size are:

- Step-sibling(s), step-children or step-parents;
- The dependent child of a minor if the application is being made on behalf of the minor;

- Siblings 19 years of age and over; and

CASE #1: Household composition: mother, her two children, and her step-child.

If application is for

Mother's children:

Filing Unit: mother and her two children.

If application is

for the step-child:

Filing Unit : is the stepchild only.

Required members of the filing unit cannot be excluded in order to determine eligibility for the rest of the filing unit.

CASE #2: Household composition: mother and her child, spouse and his child, two children-in-common.

If application is for

child(ren)-in- common

Filing Unit: Mother and her child, spouse and his child, and the two children-in-common.

If application is for

the other child(ren)

Filing Unit: The applicant child, that child's parent and siblings (children- in common).

CASE #3: Household composition: mother and her child, mother's minor daughter and her child, mother's half-sister and her child, and mother's brother.

If application is for

child or minor daughter.

Filing Units: Mother and her child and her minor daughter (not grand-daughter).

If application is for

minor daughter's child

Filing Unit: Minor daughter and child. Mother's income is deemed to her minor daughter because parents are responsible for their minor children.

If application is for

Mother's half sister's child

Filing Unit: Mother's half-sister and her child.

NOTE: Evaluate members for relationship to the applicant. Mother's brother is not a required member of either unit unless he is under the age of 18.

CASE #4: Household composition: Pregnant mother and her child and father of the unborn - no marriage.

If application

is for child

Filing Unit: Mother and her child.

NOTE: Since there is no marriage, there is no deeming because spouses are responsible for each other. Assess any contributed income.

CASE #5 Household composition: mother and her child, spouse and child in common. Spouse is incapacitated. He and his child are receiving disability benefits **(Not SSI)**.

If application is
for child-in-common

Filing Unit: Mother, spouse, mother's child and child in-common. Spouse is incapacitated. Since his disability benefits are not SSI they must be counted in full.

If application is
for mother's child

Filing Unit: Mother and mother's child. Since the child in common is a sibling, the child-in-common must be included and his benefits counted. The spouse's disability benefits must be deemed to Mother.

CASE #6 Household composition: Child and grandmother who is the child's legal guardian.

If application is
For the child

Filing Unit: Child only, since guardians are not financially responsible for the person for whom guardianship is established

CASE #7 Household composition is grandmother and child.

If application is
For the child:

Filing Unit: Child only since grandparents are not financially responsible for grandchildren under state law.

AGE: To be IV-E eligible, the child must be under the age of 18, be attending school or being home schooled (if age appropriate) regardless of whether (s)he makes satisfactory grades in school; or an 18 year old who is a full-time student in a secondary school or in the equivalent level of vocational or technical training, who has agreed to stay in foster care because (s)he is expected to complete the program in or before the month of his/her 19th birthday. Eligibility continues for the 18 year old through the month of graduation or completion of the program. IV-E eligibility must be terminated when the youth turns age 18 if (s) he is not expected to complete the program in or before the month of his 19th birthday. Children may be "home schooled" rather than enrolled in public or private schools and if the home schooling average weekly hours are within plus or minus five (5) hours of the public school's schedule of 30 hours of class time per week, consider this a full-time student.

If the 18-year-old is enrolled in a program, the attendance hours may vary but should closely approximate 30 hours/week on average to qualify the 18-year-old as a full-time student. Request verification on attendance hours and other requirements from the institution providing the instruction

STRIKERS:

A child is ineligible for IV-E if the child's natural or adoptive parent, with whom the child is living, is participating in a strike (as defined below) on the last day of the month in which the petition is filed leading to the removal of the child.

Strike--Temporary concerted stoppage of work by a group of employees (not necessarily members of a union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, or resolve a dispute with management. Also includes a work stoppage by reason of the expiration of a collective bargaining agreement.

Wildcat or Outlaw Strike--A strike not sanctioned by a union and one which violates a collective bargaining agreement.

Slowdown--A deliberate reduction of output without an actual strike to force concessions from an employer.

Sympathy Strike--Strike of employees not directly involved in a dispute, but who wish to demonstrate employee solidarity or bring additional pressure upon the employer involved.

Sit-down Strike--Strike during which employees remain in the work place but refuse to work or allow others to do so.

General Strike--Strike involving all organized employees in a community or county.

Walkout--Same as strike.

Lockout--Is not considered to be a strike.

		IV-E 102
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	VERIFICATION AND DOCUMENTATION

References: AFDC State Plan in effect on July 16, 1996

GENERAL RULE

Certain nonfinancial and financial criteria must be verified and/or documented to determine IV-E eligibility. Following is a list of items, which must be verified and/or documented if applicable, and copies of this documentation must be placed in the child's eligibility case file.

In cases where the child(ren) is included in a household receiving federal assistance (e.g. Food Stamps, TANF, Medicaid) it will be necessary to obtain copies of verification from the family's case file for each child's case file. Depending upon the circumstances of the case, documentation in the file may not be limited to the below referenced documents.

AGE

Birth certificates, baptismal certificates, or school records; hard copy verification is required to be placed in the child's eligibility file.

DETL SCREEN FROM THE FINANCIAL MODULE

IV-E Budget Computation is automated through the financial module, statements supporting payments to dependent members out of the household, copies of child support/alimony orders for members out of the household, copies of income taxes claiming dependents and any other verification used to explain the budgeting process.

CITIZENSHIP/QUALIFIED ALIEN STATUS

Birth certificate, baptismal certificate, INS documentation, SAVE, US passport, certificate of birth, report of birth abroad and SOLQ; hard copy verification is required to be placed in the child's eligibility file to verify citizenship/alien status.

DAY CARE

Verification from the provider confirming rate of pay, child(ren) or adults receiving care and anticipated hours of use. Copies must be placed in child's case file.

DEPRIVATION

Documentation verifying deprivation either by death, physical/mental incapacity, absence, or unemployment is needed. Copies of document must be placed in child's case file.

DEEMER'S INCOME

Pay stubs, employer statements, MISTICS, SEARCHS, BENDEX, (TEAMS screens SDII and BEII) tax records for adult household members who are not required filing unit members but whose income must be deemed to the filing unit; copies of verification of income data must be included in the child's eligibility file.

HOUSEHOLD COMPOSITION

Hard copy verification only required if household composition is questionable.

INCOME

SEARCHS, MISTICS (TEAMS screens SDII and BEII); copies of verification and how the income was derived must be included in the child's eligibility file.

LIVING WITH A SPECIFIED RELATIVE

Birth certificate, adoption papers, baptismal certificate, marriage license, divorce decree, and death certificate are required to verify relationship. If specified relative is not the natural/adoptive parent, documentation must exist to verify specified relative within the fifth degree of kinship. Verify that child was living with caretaker relative within the past 6 months if currently living with a non-relative. Hard copy verification is required to be placed in the child's eligibility file.

RESOURCES

PJUSTICE to verify automobile ownership.

SCHOOL ATTENDANCE

School attendance records (including home schooling) for all children over 16 if student is employed and all 18 year olds.

SOCIAL SECURITY NUMBER

Not required for IV-E eligibility but is required for Medicaid eligibility. Proof of application for a number; placing worker statement; SSA interface will verify. Copy of the card is not required.

		IV-E 103
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	CITIZEN / ALIEN

References: 42 CFR 435.406 & .408

GENERAL RULE: To be IV-E eligible, the child must have verification that (s) he is a United States (U.S.) citizen, National or qualified alien.

U.S. CITIZEN:

A United States citizen is someone born in:

- One of the 50 states;
- The District of Columbia;
- Puerto Rico;
- Guam;
- The U.S. Virgin Islands; or
- The Northern Mariana Islands

Individuals born in the United States are U.S. citizens. This principle applies even to children whose parents are present in the U.S. illegally.

U.S. NATIONALS:

A U.S. National is someone born in American Samoa or Swain’s Island.

NATURALIZATION:

Children who are not U.S. citizens by birth may acquire citizenship by naturalization. Citizenship acquired by naturalization can be verified in the county where naturalization occurred. Each county Clerk of Court has an index of all individuals naturalized in that county. If the person’s record cannot be located or the county of naturalization is not known, verification can be obtained from INS, which maintains an index of all naturalized individuals.

CHILD CITIZENSHIP ACT OF 2000

A child born outside of the U. S. to citizen parents or adopted from abroad by U.S. citizen parents automatically becomes a citizen of the U.S when all of the following conditions have been fulfilled on or after February 27, 2001:

- At least one parent of the child is a U.S. citizen, whether by birth or naturalization.
- The child is under 18 years of age.
- The child is lawfully admitted for permanent residence to the U.S. and is residing in the legal and physical custody of the citizen parent.

DERIVATIVE CITIZENSHIP:

Children can derive citizenship from their parent(s). For example, a child born abroad to a U.S. citizen might acquire foreign citizenship depending on the laws of that country.

PERSON BORN ABROAD:

If the child has not gained citizenship under the Child Citizenship Act of 2000, have the worker contact INS to complete the necessary paperwork and provide status verification.

FOREIGN ADOPTION BY U.S. CITIZEN:

If an adopted child has not gained citizenship under the Child Citizenship Act of 2000; determine if the child has been granted U.S. citizenship by application to INS. If the birth certificate shows a foreign place of birth and the child cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S citizenship.

VERIFICATION

Hard copy verification is required to be in the case file. Use any of the following documents to verify U.S. citizenship or National status:

- Birth certificate
- U.S. Passports;
- Report of Birth Abroad of a Citizen of the U.S.;
- Certification of Birth (form FS-545);
- U.S. Citizen I.D. Card;
- Naturalization Certificate (form –550 or –570);
- Certificate of Citizenship (form N560 or –561);
- Northern Marianas Card (form I-873); or
- Statement provided by U.S. consular official certifying the individual is a U.S. citizen.

QUALIFIED ALIEN

The alien child must have documentation of his/her alien status; if the child is not a U.S. citizen or U.S. National, his/her alien status must be evaluated. Alien status is normally documented by Immigration and Naturalization Services (INS), or the written decision of an immigration judge. If a child is a qualified alien it is not important to know whether the child entered the US before or after August 22, 1995 unless the child is placed with an unqualified alien. In those cases, no federal IV-E funds can be used for foster care payments until the 5-year residency is met.

QUICK REFERENCE GUIDE

IF ALIEN IS:	S/HE POTENTIALLY ELIGIBLE IF:	REQUIRED DOCUMENTATION IS:
Lawfully Admitted Permanent Resident (LAPR)	Meets 40 Quarters requirement; or American Indian born in Canada with at least 50% Native American blood (see below); or Enrolled member of a federally-recognized Indian tribe under section 4(e) of the Indian Self Determination and Education Assistance (see below).	Form I-94 alien registration form; or a temporary unexpired I-551 stamp on a Canadian passport.
Refugee	Eligible for 7 years from date of entry.	INS Form I-94 endorsed to show entry as refugee under Section 207 of the INA and date of entry to the U.S.;
Asylee	Eligible for 7 years from date of entry/date granted asylum	INS Form I-94 annotated with stamp showing asylum granted under section 208 of the INA;
Deportation withheld	Eligible for 7 years from date of entry/date withholding granted.	Form I-94 alien registration form
Parolee	Paroled into the U.S. under section 212(d)(5) of the INA for at least one year.	INA Form I-94 endorsed to show granting of parole under Section 212(d)(5) of the INA and a date showing granting of parole for <u>at least one year</u>
Conditional Entry	Granted conditional entry under Section 203(a)(7) of the immigration law in effect before April 1, 1980.	INA Form I-94 endorsed Refugee Conditional Entry
Cuban/Haitian Entrant	Eligible for 7 years from date of entry/status.	Form I-94 alien registration form.
Amerasian Immigrant	Was a resident of Vietnam as of December 22, 1987? Eligible for 7 years from date of entry.	INS form I-94 .
American Indian born in Canada	Is at least 50% Native American blood; or NOTE: Does not have to meet 40 Qtrs of work requirement.	birth or baptismal certificate issued on a reservation; tribal records; a letter from the Canadian Department of Indian Affairs; or a Canadian Certificate of Indian Status (Form IA-236)
Enrolled member of an Indian Tribe	Enrolled member of a federally-recognized Indian tribe under section 4(e) of the Indian Self Determination and Education Assistance Act. NOTE Does not have to meet 40 Qtrs of work requirement	Documents verifying membership; or collateral contact with the tribal government for confirmation of the individual's membership.
Battered Spouse/Child	File petition or application or evidence of a prima facie case is established by INS.	I-94 alien Registration; and Evidence relating to the petition, application or established case by INS. (If this evidence is not produced, the I-94 does not need to be verified through SAVE).
Veteran or Active Duty Military Personnel	An honorable discharged veteran of the U.S. Armed Forces: A Hmong or other Highland Laotian veteran who fought on behalf of the U.S. Armed Forces during the	Acceptable documentation of veteran status is the original copy of the veteran's most recent discharge papers issued by the branch of service in which the applicant was a member

	<p>Vietnam conflict (considered veterans for purpose of determining qualified alien status);</p> <p>An active duty member of the U.S. Armed Forces who is not on active duty for training purposes only (i.e., Reserves, National Guard); or</p> <p>The spouse, unmarried child or unremarried surviving spouse of an alien Veteran or alien Active Duty Military or Personnel as described above</p>	<p>Acceptable documentation of active military status is the original copy of the applicant's current orders posting the applicant to a military, air, or naval base.</p>
Victim of a Severe Form of Trafficking	<p>Victim of a severe form of trafficking as determined by HHS.</p> <p>Eligible for 7 years from date of entry.</p>	<p>Adults receive a certification form from HHS.</p> <p>Children receive a letter from HHS.</p>

SPONSOR DEEMING:

Income of the sponsor and spouse, of the qualified alien family who entered the U.S. after August 22, 1996, must be deemed if the sponsor is:

- citizen of the U.S. or an alien who is lawfully admitted to the U.S. for permanent residence;
- 18 years of age or older;
- Residing in any of the 50 states or the District of Columbia; and
- Is the person petitioning for the admission of the alien under section 213 of INA.

		IV-E 104
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	INCOME

References: ARM 37-49-502

GENERAL RULE: Count all income, which is not excluded, to test gross and net monthly income for IV-E eligibility.

EARNED INCOME is income earned by providing goods or services. This information will be obtained from the parent(s), TEAMS, MISTICS or the specified relative from whom the child is removed.

TEAMS

Will be the first source of information. Determine who the child was living with at the time the child was removed. Was the child receiving federal benefits at the time of removal?

- Log on to TEAMS
- When reaching SYSE screen, type CLIN in NEXT field at the bottom of the screen
- Type in the child's SSN or if unavailable, type in child's last name, middle initial (if available) and first name
- CLPR will display all of the cases associated with the child. Select a case in which the child is coded "IN" for the month in which the petition was filed. If no case was open in that month review the previous or subsequent month for an open case.
- If open case is found, note the case number. F3 back to SYSE.
- On SYSE screen type in case number and month that petition was filed or parental agreement was signed, type SEPA in NEXT field.
- Review "SEPA" screen to see if the child was an "IN" participant for the month of eligibility and the relationships of others in the case.
- Follow the rules for filing unit inclusion to determine if the adults and other children in the case are required filing unit members. This can be determined by the relationships of the adults to the children (if you are unsure what the 2 letter code means, highlight the code and press F1 for help.)
- DEPR screen will code the deprivation that exists in the household. Two parent families may not show deprivation on TEAMS if both parents are fully employed. To determine if the child is deprived, the combined income from both parents must meet the IV-E GMI and NMI standards.
- If both adults are the natural or adoptive parents of the child go through the remainder of the screens to insure citizenship, income and resources (Your key to determine this is whether the children are listed as CH, which means the child is the child of the PI (primary information person).
- If one of the adults is coded NR (not related) you will know that the adults are not married to each other so there will be no deeming and you will also know that one of the adults is not the child's natural or adoptive parent;

- If one of the adults is the parent and the other adult is coded SP (spouse) it will show that the parent of the child is married so an assessment must be done to deem the income and exclude any resources owned by the spouse.
- If the adult in the case is not the parent of the child, only the child's income or resources will be evaluated.
- For further clarification of the case, type CANS in the NEXT field and you will access case notes.

MISTICS

Is the database, owned by the Department of Labor that houses all of the wage information provided by Montana employers. This database does not include wages paid by federal employers. Once the system is accessed:

- Click on MISTICS Screens button
- Select Wages
- Select UI Wages
- Enter the parent's or parents' Social Security Numbers (this database will not search by last name, first name).
- Select the quarter in which the parental agreement or petition filing date
- Divide the wage information by 3 for monthly earnings.

UNEARNED INCOME

Is income derived from all other sources, other than earnings, and is evaluated in the same manner as earned income. This information can be provided by parent statement or found on TEAMS UNIN screen if the parent received federal benefit during the month of eligibility. A copy of this screen will serve as verification of income. If the unearned income is self-declared by the parent, request supporting documents from the parent verifying the amounts received in the month of eligibility. The following are examples of unearned income to be evaluated for eligibility.

- Child Support Payments--For continuing eligibility, do not count child support payments, which have been diverted to the department, as income to the child in foster care.
- Deemed Income--Count the deemed portion of the income of stepparents, sponsors of aliens, parents and legal guardians of minor parents and spouse to spouse in family groups living together.
- Self-Declared Unearned Income – this is income, which the parent states is received in the month of eligibility. This could include interest, rental income, alimony, etc.

EXCLUDED INCOME is income that can be disregarded (not counted) when determining initial and ongoing eligibility for a specific period of time.

Dependent Child Income – can be excluded for 6 months unless the child is a full-time student. For a youth who is not a full-time student, the first month would be the month of eligibility and the disregard would continue for the next 5 months.

LUMP SUM

The receipt of a lump sum payment by a filing unit, in the month of eligibility, is added to all other countable monthly income and tested to the appropriate income standards. If the lump sum is earned, disregards may be applied. The receipt of a lump sum payment by an individual whose income is deemed to the filing unit is counted as his/her income in the month received and a resource thereafter. Some examples of lump sum earned or unearned income are:

- Inheritance, and
- Lottery winnings.

		IV-E 105
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	RESOURCES

GENERAL RULE The IV-E resource limit is \$10,000.00. Countable resources are generally self-declared bank and savings accounts, bonds, properties, vehicles viewed on PJUSTICE or resources listed on TEAMS for the month of eligibility. Money received is considered income in the month of receipt and a resource the following month. Resources are considered available both when actually available and when the individual has a legal interest in a liquidated sum and has the legal ability to make such sum available.

IV-E RESOURCE

If the child has IV-E foster care payments made on his/her behalf the child is entitled to IV-E Medicaid even though the resources may exceed the Medicaid limit of \$3,000.00. This is because the IV-E limit is \$10,000.00.

MEDICAID RESOURCE

A child, who meets all of the IV-E requirements except placement, will have Medicaid other than IV-E and have resource limit of \$3000.00. This is because the child is not in a IV-E eligible placement and is not entitled to IV-E benefits.

SSI RESOURCE

The SSI child's resource limit is \$2,000.00. If the child is dually eligible, (s) he may have resources up to \$2,000.00 (not the \$10,000.00 allowed for IV-E) and retain the SSI/ IV-E eligibility. If the resources exceed \$2,000.00 the child no longer meets the SSI eligibility criteria.

JOINTLY OWNED RESOURCES

Must be evaluated for accessibility (available for use) to the parent and may be considered inaccessible and excluded until full ownership is established. Remember that resources jointly owned by a parent and the spouse, who is not the birth or an adoptive parent, must be assessed as to degree of ownership. Ownership of the funds in a joint account must be determined by:

- looking at the source of the funds,
- the intent with which a joint account was opened, or
- the nature of the account as a joint tenancy.

TRUSTS

Funds placed in trust accounts must be evaluated as to their availability for support and maintenance. The parent/guardian has the obligation to develop potential sources of income to a state of availability. When the parent/ guardian has unrestricted access to the trust, regardless of the stated use of the funds, the trust principal must be treated as a countable resource. If the parent/guardian's access to the trust principal is restricted (e.g., only the trustee or court, etc., can invade the trust principal), the trust principal is not a countable resource.

Example: As part of their grandchildren's inheritance a trust was established for college by their grandparents, but the children cannot access this money until their 19th birthday. The family attorney is the custodian of the fund. These funds are not available as a resource to the filing unit and must be excluded.

Example: A child was severely injured in an automobile accident and was awarded a substantial settlement. The settlement was to be used only for medical expenses deemed necessary by the court appointed trustee of the account. These funds are not available as a resource to the filing unit and must be excluded.

Example: The grandparent established a college account for her grandchild making her daughter (the child's mother) the sole signer and distributor of the funds. There is no age or any other requirement attached to the distribution of the fund. These funds are an available and a resource to the filing unit and must be assessed.

EXCLUDED RESOURCE

The following resources owned by the filing unit are to be excluded:

1. The HOME which is the usual residence of the child;
2. One VEHICLE if the equity value does not exceed \$1500. Apply any amount in excess of \$1500 to the \$10,000. Determine the equity value of any other vehicle owned and apply the amount to the resource limitation.
3. One BURIAL PLOT for each member of the filing unit.
4. BONA FIDE FUNERAL AGREEMENTS for each member of the filing unit not to exceed \$1500 of equity value per agreement unless the agreement is irrevocable. Irrevocable agreements which meet the following criteria are totally excluded:
 - The price of all major services is specified.
 - The total dollar amount of the agreement is specified.
 - The parent was neither a minor nor legally declared incompetent when the agreement was signed.
 - The funeral home representative indicates in writing that the money is not refundable under any circumstances.
5. BASIC MAINTENANCE ITEMS essential to day-to-day living such as clothes, furniture and other similar items of limited value including home computer, satellite TV dish or hunting and fishing equipment;
6. EQUIPMENT/ITEMS/PROPERTY essential for SELF-EMPLOYMENT (necessary to the production of income);
 - tools/equipment such as those needed by a carpenter, mechanic, cosmetologist, etc.;
 - stock (such as office supplies) or raw materials;
 - property essential for the production of income;
 - office equipment such as furniture, typewriters, calculators, etc.; business (commercial) checking account
 - business loans for the purchase of capital assets;
 - inventory,
 - machinery/equipment, and
 - any other items needed to produce income.
7. REAL PROPERTY for which the family is making a good faith effort to sell. The applicant must present evidence to verify that the property is on the market for sale; the property is being offered for sale at the "highest offer"; and no reasonable offer has been refused.

		IV-E 106
Child And Family Services Division	SECTION:	FINANCIAL
IV-E FOSTER CARE	SUBJECT:	BUDGETING

References: AFDC State Plan in effect July 16, 1996

GENERAL RULE For the month of eligibility (the month in which the petition is filed leading to the removal of the child or the parental agreement is signed), all financial eligibility factors are evaluated for the filing unit.

GROSS INCOME

The countable gross income of the filing unit must be equal to or below the Gross Monthly Income (GMI) Standards found in Section 002. Test gross monthly income (GMI) for the month of eligibility. If the GMI exceeds standards, deny IV-E eligibility.

DISREGARDS

The disregards are deducted from the monthly gross income of each wage earner to establish the net monthly income. The allowable disregards are:

- **\$90 STANDARD** The first \$90 of monthly earnings of each full-time and part-time employee is deducted as a work expense allowance. This deduction is for mandatory payroll deductions, transportation and other work-related expenses.
- **\$30 PLUS 1/3** An additional \$30 plus 1/3 of the balance is disregarded from each wage earners earned income only for the initial month you are reviewing for eligibility. This is a time limited disregard.
- **DEPENDENT CARE** The dependent care disregard is available for each dependent child or incapacitated adult who is a member of the filing unit. Use projected expenses that do not exceed \$175 per child or incapacitated adult per month. However, if a child is under age 2 for any portion of the month of determination; use projected expenses that are not to exceed \$200 for this child per month. Subtract from adjusted earned income the estimated monthly day care costs for the month (not to exceed maximum). Document the case file.

LIMITS ON DISREGARDS

Sometimes the earned income disregards cannot be applied in the determination of IV-E eligibility. The earned income disregards cannot be applied if any of the following apply:

- The individual member terminated employment or reduced earned income. Such termination or reduction must have occurred within thirty (30) days prior to the month of determination and must have been without good cause; or
- The individual refused to accept employment in which he/she is able to engage. Such refusal must have occurred within thirty (30) days prior to the month of determination and must have been without good cause.

ESTABLISHING GOOD CAUSE

Use the following regulations to establish if good cause exists. Good cause exists for terminating or reducing earnings if:

- The parent is physically or mentally impaired determined by a physician or licensed or certified psychologist or another member of the assistance unit requires the individual's presence in the home on a continuous basis and there is no other appropriate member of the unit available to provide care.
- The parent is physically or mentally incapacitated (determined by a physician or licensed or certified psychologist). This incapacity (either by itself or in conjunction with age) prevents the individual from continuing employment.
- The parent is sixty-five (65) years of age or older.
- The parent has an illness or injury serious enough to temporarily prevent continued employment (determined on the basis of medical or other sound evidence).
- There is a breakdown in transportation or child care arrangements.
- Working conditions are poor - risks to health, safety, and lack of worker's compensation coverage.
- Other conditions and circumstances exist which prevent continuation of employment or make continuation of employment inadvisable.

Good cause for refusing employment exists if:

- Wages offered are lower than state minimum wage;
- Physical or mental problems significantly impair the parent's ability to perform required duties of the job;
- Transportation is not available and distance to and from employment prohibits walking;
- Working conditions are so poor as to constitute health or safety risks;
- Employment provides no worker's compensation protection; and
- Suitable childcare is not available.

NET INCOME

Net Monthly Income (NMI) is the amount to be evaluated after all disregards and excluded income has been subtracted from the gross income. NMI must be compared to the NMI standards for filing unit size found in Section 002. If the NMI is more than the standard, deny IV-E eligibility.

CALCULATING MONTHLY INCOME

In instances where the income verification is provided by the parent instead of TEAMS or MISTICS, the income must be converted to a monthly amount. The information below demonstrates how to convert weekly, bi-weekly or twice a month pay-periods into a monthly income amount.

Factoring for
weekly
pay periods:

EXAMPLE: If a filing unit earned \$62.31 in weekly gross wages, multiply this amount by 4.3 for a total of \$277.93 which is the gross monthly wage for the client.

Factoring for
bi-weekly (every
two week) pay
periods:

EXAMPLE: If a filing unit earned \$320.67 every two weeks (every other Friday) in gross wages, multiply this amount by 2.15 for a total of \$690.44 which is the gross monthly wage for the client.

Calculating monthly
income for pay
periods twice a
month:

EXAMPLE: If a filing unit earned \$6.00 per hour, 40 hours per week and they were paid twice a month on the 1st and 15th. Determine the monthly income by multiplying the hourly rate x 2080 (hours in a year) and divide that answer by 12 to determine monthly income.

INCOME TO BE DEEMED

Income of certain individuals who are part of the household but who are not a required filing unit member must be considered as a condition of eligibility. The resources owned exclusively by these individuals are excluded. Once the amount of the income is determined, it is deemed to the filing unit and counted as unearned income. Income of the following individuals must be deemed to the filing unit to determine IV-E eligibility:

- The parent(s) of a minor with child if IV-E eligibility is being determined for the minor's child;
- The spouse of a minor when the minor is being removed from the home;
- A stepparent who is not the birth or adoptive parent of the child whose IV-E eligibility is being determined; and
- Sponsors of certain aliens as identified in IV-E 104

LUMP SUM PAYMENTS

The receipt of a lump sum payment by the deemed individual is considered his/her income in the month received (therefore it is to be deemed to the filing unit) and a resource thereafter.

EIC

The receipt of EIC (Earned Income Credit) by an individual whose income is deemed is excluded as earned income and a resource.

INCOME DEEMING PROCEDURE:

- Assess the family to determine required filing unit members and those who are not required filing unit members.
- Determine the number of dependents claimed by the person whose income is to be deemed. This number is determined by counting the individual plus all others in the

home who are dependents of this individual but not in the filing unit. For example, the deemed person and his one dependent child equals an NMI size of 2.

- Review all non-financial and financial information for all of these household members. The deemed person is allowed to claim income disregards in calculating the amount to be deemed to the filing unit. These disregards are the \$90 standard work expense; the NMI amount for the deemed individual and his/her dependents not in the filing unit but in the home; payments made to dependents out of the home; and payments of alimony or child support to persons out of the home (to establish "dependent" individuals evaluate if they are or could be claimed for purposes of determining federal personal income tax liability).
- Subtract the allowed payments, the \$90 and the NMI amount from the countable income and deem the balance as unearned income to the filing unit.

EXAMPLE of DEEMING: A married couple, his teenager, her child and their child-in-common all reside together. Her child and the child-in-common are removed and placed in foster care. His teenager remains in the home. He earns \$1000.00 a month and pays \$200.00 a month support for a child that does not live with him. The wife draws \$545.00 a month in SSI.

Filing Unit for Mom's child: Mom, her child and child-in-common with her spouse (the child for whom eligibility is being determined, parents and siblings).

<u>Deeming:</u>	Husband's salary	\$1,000.00
	Earned Income Credit	<u>-90.00</u>
	Sub-total	910.00
	NMI for 2 (self & teen)	<u>-445.00</u>
	Sub-total	465.00
	Child Support paid	<u>-200.00</u>
	Amount to be deemed	\$ 245.00

Budget Calculation

Mom's SSI will not be counted as income to the family but the deemed unearned income will be counted. This will be compared to the Gross Monthly Income standard (GMI) for a household of 3 (mom, her child and child-in-common with her spouse). Mom has no earnings so she does not get the \$90.00 earned income disregard or the \$30 and 1/3 nor does she have dependent care expenses. The total gross income is \$245.00 deemed from her husband and this meets the GMI for a household size of 3. It also meets the NMI for a household of 3. Mom's child meets the financial criteria for IV-E eligibility.

Filing Unit for child-in-common: The filing unit will be dad, child-in-common, mom's child and dad's teen. (the child for whom eligibility is being determined, his parents and siblings) Mom is not a member of the filing unit because her only income is SSI and will not be counted.

Budget Calculation

There is no deeming since both of the child's parents required income will be counted in full. Mom's only income is SSI and will be exempt by law. If she had any other income it would be counted.

Dad's Income	\$1,000.00
Work Disregard	<u>- 90.00</u>
Subtotal	910.00
Less \$30.00	- 30.00
Sub Total	<u>880.00</u>
Less 1/3	- 293.33
Sub Total	<u>586.67</u>
Dependent Care	-200.00
Balance	<u>\$386.67</u>

Compare the total income to the GMI Standard in Section 002. If the gross income does not exceed the GMI, continue to the next step and subtract the disregards. After all disregards are considered, compare the balance to the NMI Standard in Section 002. The NMI standard for four is \$671.00; therefore the child-in-common meets the financial criteria for IV-E eligibility.

	IV-E 200
Child And Family Services Division	SECTION: LEGAL
IV-E FOSTER CARE	SUBJECT: DOCUMENTS AND TIMEFRAMES

References: 45 CFR 1356

GENERAL RULE In order to access IV-E benefits all legal requirements must be met within the mandated time frames. In some instances if the timeframes are not met, the child will not be IV-E eligible for the extent of this removal period.

Listed below are the most common legal documents you will be reviewing. There will be other documents used by the different tribes that serve the same purpose but may be called by a different name.

PETITIONS FOR COURT ORDERS

Petition for Immediate Protection and Emergency Protective Services – filed when the child protection specialist must make an emergency removal of the child from the parent’s home. The order is given based on the child protection specialist statement and is issued upon filing the petition. This protective order must contain the contrary to welfare language and must give placement and care authority to the department or designee. An affidavit must be presented to the county attorney as soon as possible following the removal. The county attorney will then file the petition. The affidavit and the petition must all be completed within 48 hours (excluding weekends and holidays) of the physical removal. Tribal protective orders may have different time limits, for instance it may be 72 hours. The time frames specified above are in state statute and do not apply to the reservations.

Petition for Temporary Investigative Authority – specifically limited to investigation. If the court grants this petition, it gives judicial authority to conduct an in-depth investigation into the child’s situation.

Petition for Temporary Legal Custody – filed when the child protection specialist determines the child is or has been abused, neglected or abandoned. This petition may be the initial petition in the case.

Petition for Termination of the Parent-Child Legal Relationship- filed when continuation of the parent-child relationship is not in the child’s best interests and the statutory requirements are met.

Petition for Appointment of a Guardian- filed for a court appointed guardian which is one option for permanency. Parental rights do not need to be terminated prior to filing for a guardian.

Petition for a Determination that Preservation and Reunification Services Need not be Provided – is filed when the child protection specialist determines one of the statutorily required conditions exist and that services to prevent the removal or services to reunite the

child will not be successful. This will require evidence that one of the required conditions is present in the case. This cannot be filed if the child, who is the subject of the proceedings, is an Indian child defined by ICWA.

Petition on Behalf of an Abandoned Infant – The county attorney may file a petition for immediate protection and emergency protective service combined with either TIA, TLC based on abandonment or TPR. The court cannot terminate the parents' rights prior to 60 days after surrender of the infant because the parent(s) have 60 days to petition for custody of the newborn. The infant is presumed to have been born in Montana and a US citizen.

COURT ORDERS

Temporary Investigative Authority (TIA) – Judicial authority to conduct an intensive investigation into suspected child abuse and neglect under which the court grants specific relief. This order does not customarily give authority to remove. Problems arise when a TIA is issued for an investigation but the order also allows the placing worker to remove if the situation is unsafe for the child. Example: A TIA is granted allowing the worker to investigate and if circumstances warrant the child may also be removed for their protection. Since this order allows for a removal, it contains the “contrary to the welfare” language and gives placement and care authority to the department. If the child is left in the home, the placing worker violates the court order because the order states it is contrary to the welfare of the child to remain in the home. If the child is removed under an investigative order, it must be followed with a removal order whereby the placing worker has convinced the court that the investigation warrants a removal of the child and the court concurs. If the subsequent order sanctioning the removal is not received, this child does not meet the legal requirements for IV-E eligibility.

Temporary Legal Custody (TLC) – legal status created by an order of the court that gives a person or agency the right and responsibility for the care, custody and control of a child on a temporary basis. Can only be granted for six months with one six-month extension. This is a state statute and does not apply to tribal orders.

Termination of Parental Rights (TPR) – The legal rights of legal parents are terminated by a court of competent jurisdiction.

Permanent Legal Custody(PLC) – an order that grants permanent responsibility for care, custody and control of the child to a person or agency. This would be requested for a child who cannot return home and who the department expects to place for adoption.

Voluntary Relinquishment – is a written document by which the parent voluntarily surrenders his or her rights to and responsibilities for a child who has not been the subject of allegations of abuse and neglect. Within 6 months of relinquishment, this action must be followed by a judicial determination that it is in the best interests of the child not to remain in the home. If the latter determination was not made, this child is ineligible for a Title IV-E subsidy unless the child is SSI eligible at the time of the adoption.

LEGAL REQUIREMENTS

The following documents must be copied and placed in the child's IV-E eligibility file:

- Copy of the petition leading to the removal of the child; or
- Copy of the parental agreement between the custodial specified relative and the department. This must be followed within **30 days** by a court order described below.
- Copy of the court order, sanctioning the removal of the child, giving placement and care authority to the department or other public agency, which has a current agreement with the department. This order must contain the language that it is contrary to the welfare of the child to remain in the home or that it is in the best interests of the child to **not** remain in the home; it may also include the specific services provided to prevent or why no services could be provided to prevent the removal; or services provided to reunite; or circumstances to justify that no reasonable efforts are required. If this information is contained in the initial order, skip the next step; or
- Copy of the **judicial determination** that reasonable efforts were made or could not be made to prevent the removal; or if it is an emergency removal, that reasonable efforts to reunite the family; or because of the circumstances, reasonable efforts were not required. This order must be specific as to services provided to prevent or why no services could be provided to prevent the removal; or services provided to reunite; or circumstances to justify that no reasonable efforts are required. This order **must be within 60 days of the placement into foster care.**
- Copies of the judicial determination that the agency is making reasonable efforts to finalize the child's permanency plan. In cases where the events for removal are such that reasonable efforts to prevent or reunite are not required, the permanency plan must be held **within 30 days of this determination**. Preservation and reunification efforts are not required with a caretaker relative who:
 - subjected a child to aggravated circumstances, including but not limited to; abandonment, torture, chronic abuse or sexual abuse or chronic, severe neglect; or
 - committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child; or
 - committed aggravated assault against a child; or
 - committed neglect of a child that resulted in serious bodily injury or death; or
 - had parental rights to the child's sibling or other child of the parent involuntarily terminated, and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care for the child at issue; or
 - if the putative father failed to contribute to the support of the child for an aggregate period of 1 year or to establish a substantial relationship with the child or register with the putative father registry and he has not been adjudicated to the father of the child for child support and he is not recorded on the child's birth certificate as the child's father.

- Copies of the judicial determination that the agency is making reasonable efforts to finalize the child's permanency plan. Except in cases as described in the previous paragraph, these determinations must be made **within 12 months of the child's entry into foster care and in 12 month increments thereafter for the duration of the placement.**

The entry into foster care or placement date, for **permanency hearing purposes only**, is either the date of the first judicial finding that the child was subjected to child abuse or neglect or the date that is 60 calendar days after the date on which the child is removed from the home. Whichever date comes first is the date from which all permanency hearings and termination proceedings are calculated. If a hearing is scheduled within the time frames allowed but subsequently continued until a later date, this does not count as a "held permanency hearing". No IV-E funds can be used from the time the judicial determination is due until the determination is actually made.

Unless all of the financial, legal and licensing criteria are met, the child is not considered to be IV-E eligible.

PLACING WORKER

1. Will furnish designated regional staff with copies of all legal documents pertaining to the child's case upon receipt of this information. This will include voluntary agreements, petitions, continuances, trial home visits, dismissals and court orders.

ELIGIBILITY STAFF

2. Review the documents received to insure that each child:
 - Was removed via a voluntary parental agreement signed by a representative of the department (or public entity party to an agreement with the department) and the custodial specified relative; or
 - has a petition filed within 48 hours of the child's removal (or according to tribal code); and
 - was removed via a court order giving placement and care authority to PHHS or a public agency with whom PHHS has a IV-E agreement; and
 - was removed via a court order stating that it was in the best interests of the child not to remain in the home or that it was contrary to the welfare of the child to remain in the home due to alleged abuse and neglect; and judicial determination was made that reasonable efforts were made or could not be made to prevent the removal; or if it is an emergency removal, that reasonable efforts to reunite the family; or because of the circumstances, reasonable efforts were not required. This order must be specific as to services provided
 - to prevent or why no services could be provided to prevent the removal; or services provided to reunite; or circumstances to justify that no reasonable efforts are required
 - In the instances of state to tribal transfers of jurisdiction, there must be no gaps in the transferring process between the two entities.

Example 1: The state jurisdiction ends on June 30th but the tribal court does not accept the case until July 17th. The child will not be eligible for the period of time uncovered by court jurisdiction. IV-E eligibility can be recovered once the case is under tribal court jurisdiction if placement and care is given to the tribe and the child is placed in a licensed foster care home.

Example 2: If the child was returned home prior to the tribal court accepting the foster care case, there must be a new removal meeting all of the requirements of an initial removal.

3. Upon receipt of all the information, determine IV-E eligibility for foster care. Check the appropriate box indicating the eligibility, effective date of IV-E (effective the first day of the month in which all legal and financial criteria are met, not the month for which the financial eligibility was evaluated (petition filing date).
4. If any of the court documents are missing, request that the admin support of placing worker for that office scan the needed information into docgen. Once these court orders are entered on the court screen CRTL the system during the nightly batch process will create an approved span on IVEL back to the date that all requirements were met.
5. If the court orders do not contain the required language, or give placement and care authority to the department the reasonable efforts requirements were not met within the 60 days, this is a fatal error and cannot be corrected unless court transcripts are received and contain the necessary information. The CO will enter the information on the CREI screen and a denied span will be created on IVEL after the nightly batch process runs.
6. If an order, containing all of the required language **is not** issued within **30** days of the parental agreement signed by the parent(s) and a representative of the department, IV-E eligibility ceases on the **30th** day. The during the nightly batch process the system will deny the IV-E eligibility and a denied span will be created on IVEL.
7. Proper management of the case requires that copies are received of all ongoing court documents placed in the file, including the judicial determination that reasonable efforts were made to finalize a permanent plan for the child, termination hearings, etc. Continued IV-E payments cannot be made if the ongoing documents are not received.
8. If a child is on a trial home visit, verify that the visit does not exceed 180 day unless the court is aware and an extended trial home visit is approved. If the visit does exceed 6 months (180 days) and is not considered an extended trial home visit, IV-E eligibility terminates on the 181st day and the child is presumed to have returned home. Any future IV-E eligibility will require a new removal and new IV-E determination will need to be completed.

		IV-E 300
Child And Family Services Division	SECTION: PLACEMENTS	
IV-E FOSTER CARE	SUBJECT: PLACEMENTS AND MEDICAID	

Reference: 45 CFR 1356.30

FOSTER CARE PLACEMENT GENERAL RULE

Foster care means 24-hour substitute care for children placed away from their parents or guardians.

LICENSE VERIFICATION

In order to access Title IV-E funds for foster care payments, the foster care placement must be fully licensed in accordance with the criteria established by the state or tribe. The license of the placement must be attached to the child in CAPS before IV-E payments can be used. The license and supporting documentation must be placed in the child’s file in accordance with federal review policy.

The status of the family foster care license must be “regular” or “restricted” and must have this status for the payment period. If the status is anything other than either of those for the payment period, a suspended span on IVEL will be created in the nightly batch process when the child is attached to this type of license.

Remember that a child can be IV-E eligible once the legal, financial and licensing eligibility is established. The IVEL screen will show an approved span once the IV-E requirements are met and the eligibility will be captured in the IV-E penetration rate. The penetration rate is used in the formula for IV-E reimbursement for administrative costs and maintenance costs.

NON-LICENSED PROVIDERS

Foster care youth may be placed with family members, kin or family friends who choose not to be licensed as a family foster care home. These providers cannot be paid with Title IV-E funds for any portion of the foster care maintenance payment.

NON IV-E PROVIDERS

Title IV-E funds cannot be used to pay licensed or non-licensed providers which include detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of children who are determined to be delinquent. Public child-care agencies with more than 25 children, medical expenses or the medical component of group home care and residential therapeutic facility daily charges cannot be funded with IV-E funds.

CHILD OF A MINOR PARENT

Children are often born to minors in foster care. Many times there is no intent to remove these infants from the teen parent because there is no abuse or neglect but a parental agreement is entered into for the sole purpose of funding. In instances such as this, the baby retains the same eligibility as the mother. If the mother is IV-E eligible the baby is IV-

E eligible, and the court order covering the mother also covers the baby. Since the baby is not in protective custody due to abuse and neglect, the baby does not receive foster care Medicaid. The mother needs to apply for other Medicaid programs for the baby at the local Office of Public Assistance.

If the baby is removed from the mother via a court order or parental agreement, all of the same IV-E criteria apply that apply to other removals.

INDEPENDENT LIVING

IV-E eligible youth may be placed in an independent living program to transition them into total independence due to emancipation or adulthood. IV-E funds cannot be used for services provided to these youth because they are not in 24 hour supervised licensed foster care.

FROM OUT OF STATE

Indian tribes may wish to accept jurisdiction of IV-E or non IV-E eligible children without going through the interstate compact process in order to be part of the decision process as allowed under ICWA.

According to the tribal agreements with the state, the state does not participate in funding of these children. In instances where the child did not have a determination of IV-E eligibility prior to the acceptance by the tribe, eligibility cannot be determined in Montana. Part of the IV-E eligibility criteria is that the child must be a resident of Montana at the time the petition for removal or the parental agreement is signed by the department/tribe and the custodial relative.

IV-E eligible children entering the state for placement in foster care or adoption will be issued a Medicaid card based on the IV-E foster care/adoption payments from the sending state. The sending state is responsible for redetermining the continuing IV-E /Medicaid eligibility for the ongoing Medicaid.

TO ANOTHER OF STATE

IV-E eligible children placed in other states for foster care or adoptions will have a Medicaid card issued by the other state based on the IV-E funded foster care / adoption payments. The ongoing eligibility redeterminations are the responsibility of the department.

INTERSTATE COMPACT

Interstate compact is a formal agreement between states detailing the needs of the child and requesting the receiving state to provide the services and supervise the placement. The receiving state may refuse the request because the child is in need of services not available in the placement community. If there are questions about the eligibility of a child coming in from another state, contact the Interstate Compact program officer for guidance concerning this child's eligibility.

VOLUNTARY RELINQUISHMENTS

Children placed adoptively may be determined to be eligible for a IV-E adoption subsidy if:

- The child is SSI eligible; or
- The child was voluntarily relinquished by the natural parents to the State agency or another public agency (including Tribes) with whom the State has a title IV-E agreement or to a private nonprofit agency and there is a petition to remove the child within 6 months of the time the child lived with a specified relative; and
- There is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare. The order cannot simply sanction a voluntary relinquishment.

FOSTER CARE AND SSI MEDICAID

Children placed in a paid foster care placement, that is, a placement that receives a shelter care payment, are eligible for foster care medicaid. IV-E foster care medicaid is available for children that receive IV-E payments for their cost of care. Foster care medicaid is handled by the IV-E Compliance Officer at the Central Office and not the local Office of Public Assistance.

When a child is removed and an approved foster care service is added to SERL, the Compliance Officer receives an alert from the CAPS system. The CO then checks in the CHIMES medicaid system to see if the child is currently receiving medicaid through another program. If the child is not receiving medicaid, the CO will open the medicaid effective the month the paid service begins. If the child is open on another medicaid program and expected to remain in care less than 90 days, the Office of Public assistance per policy can keep the medicaid open for that child so that services remain in place when the child returns home.

If the child is expected to be in foster care longer than 90 days, the CO will contact the Office of Public Assistance and request closure of the other medicaid so that foster care medicaid can be opened for the child.

In order to open medicaid the following is needed:

- A birth certificate for children born outside of the state of Montana. (for children born in Montana, an abstract birth certificate is available to the CO and the placing worker will not need to provide this)
- Social Security Number (medicaid cannot be opened for children over the age of 1 year without this information. Medicaid can be opened for newborns or children under the age of one and proof that application for a card has been made is needed.)
- Proof of identity. For state agency placed children the state issued picture ID card will suffice (this requirement is from the 2005 Deficit Reduction Act)
- **MEDICAID CANNOT BE OPENED WITHOUT THE BIRTH CERTIFICATE OR SOCIAL SECURITY NUMBER.**

The medicaid card will be sent to the child's current worker per unit policy. It will be up to the worker to make sure that a copy of the card is made for the file, as well as, making sure the card stays with the child if the child changes placement. A medicaid card will be issued

for all children when the foster care medicaid is opened. If a card is lost or damaged, it will be up to the child's current worker to request a replacement card from the CO.

If a child is receiving SSI at the time of removal and placement and is under the age of 16, the IV-E Compliance Officer will also handle this type of medicaid. Once the agency becomes payee for the SSI benefit, the IV-E Compliance Officer will request that the SSI medicaid be closed in the OPA and a new case for the child will be opened by the CO. The medicaid card will be sent to the child's current worker.

If the child is age 16 or older, the SSI case will be left with the OPA in order to facilitate a smooth transition for this child when they turn 18 and leave foster care.

If a child is placed in a 100% medicaid paid facility, at time of removal, it will be the responsibility of the placing worker to request another type of medicaid through the local OPA unless the child is already covered under another medicaid program at the OPA. The IV-E unit is not authorized to provide any other type of medicaid other than foster care medicaid or SSI medicaid. If the child is receiving SSI medicaid at the time of removal and placement in a medicaid paid facility, the CO will request closure of the SSI medicaid once the agency becomes payee for the SSI benefit.

If a child goes from a paid foster care placement to a 100% medicaid paid placement and is going to remain in the placement for more than 45 days, then foster care medicaid will close at the end of the month in which the 45 days occurs and the current worker will be responsible for applying for another type of medicaid at the local OPA. The IV-E compliance worker receives an alert in the CHIMES medicaid system that a change has occurred and will contact the child's current worker to determine the anticipated length of stay for the child.

If a child is placed in a non-paid kinship placement, they are not eligible for foster care medicaid since a foster care payment is not being made on their behalf. It would be best if the kinship provider would apply for medicaid on the child's behalf at the local OPA, however if this cannot be accomplished, the child's current worker can apply for medicaid only at the local OPA. If the placement becomes licensed and foster care payments are being made, the IV-E Compliance Officer will receive an alert in CAPS when the paid service is approved. The CO will then request closure of the medicaid at the local OPA and foster care medicaid will be opened for this child and a replacement card will be sent to the child's current worker.

NOTE: Children on a trial home visit are not eligible for foster care medicaid regardless of whether or not the agency still has placement authority.

NOTE: A youth in independent living is not eligible for foster care medicaid regardless of the agency's continued authority. The stipend payment for rent does not count as a foster care payment as these youth are not in fully licensed foster care placements. These youth need to apply for medicaid on their own behalf at the local OPA.

If you have any questions concerning medicaid, please contact the IV-E Compliance Officers or the IV-E unit supervisor at Central Office.

		IV-E 400
Child And Family Services Division	SECTION: ADOPTION ASSISTANCE	
IV-E ADOPTION ASSISTANCE	SUBJECT: PROGRAM INSTRUCTION	

Background: The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), enacted on October 7, 2008, amended the eligibility requirements for the title IV-E adoption assistance program provided in section 473 of the Social Security Act (the Act). The revised eligibility criteria in section 473(a)(2)(A)(ii) of the Act will be phased in for specific children over an nine-year period beginning in Federal fiscal year (FFY) 2010, as we describe below. A child for whom the revised eligibility criteria apply is referred to in the law as an "applicable child." An applicable child, as defined in section 473(e) of the Act, is a child who meets the applicable age requirements, or a child who has been in foster care for at least 60 months, or a sibling to either such child if both are to have the same adoption placement. A child who is referred to in section 473 of the Act as "not an applicable child" is one for whom the revised eligibility criteria do not apply and to whom the eligibility requirements in place prior to October 1, 2009 apply.

Information: Adoption Assistance Eligibility Criteria for the Applicable Child

Beginning in FFY 2010, a title IV-E agency must enter into an adoption assistance agreement with the prospective adoptive parents of any child who meets the criteria for an "applicable child" as defined in section 473(e) of the Act, as well as the revised eligibility criteria in section 473(a)(2)(A)(ii) of the Act. The title IV-E agency must provide adoption assistance to every child it determines is eligible, unless the prospective adoptive parents decline such assistance. Further, the title IV-E agency is prohibited from imposing additional eligibility requirements not contained in Federal law.

As part of determining eligibility for an "applicable child," the title IV-E agency must determine that the child meets the following special needs criteria, as established in section 473(c)(2) of the Act:

- that the child cannot or should not be returned to the home of his parents, in accordance with criteria that the title IV-E agency has established;
- that there is a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under title IV-E and medical assistance under title XIX, OR that the child meets all of the medical or disability requirements for Supplemental Security Income (SSI). If a child meets all the medical or disability requirements for SSI, the criteria for the factor or condition element of the special needs determination will be met; and
- that a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance under title IV-E or medical assistance under title XIX. The only exception to this requirement is where it would be against the best interests of the child because of such factors as the existence of

significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child.

The title IV-E agency must also determine an "applicable child" with special needs meets one of the four following eligibility requirements:

1. **Child meets specific requirements at the initiation of adoption proceedings:** the child, at the time of the initiation of adoption proceedings, was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to:
 - an involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; OR
 - a voluntary placement agreement or voluntary relinquishment. Thus, for an "applicable child," there does not have to be a title IV-E payment made under a voluntary placement agreement.
2. **Child meets all medical and disability requirements of SSI:** the child meets all medical and disability requirements of title XVI with respect to eligibility for SSI benefits. An "applicable child" does not have to meet the needs-based requirements for SSI.
3. **Child of a minor parent:** the child was residing in a foster family home or child care institution with his/her minor parent and the minor parent was removed from home pursuant to either: (1) an involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; or (2) a voluntary placement agreement or voluntary relinquishment.
4. **Child was eligible in prior adoption:** the child was adopted and was determined eligible for title IV-E adoption assistance in a prior adoption (or would have been found eligible had the Adoption and Safe Families Act of 1997 been in effect at the time of the previous adoption), and is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died. In such an instance, the child may retain eligibility for adoption assistance payments in a subsequent adoption. The title IV-E agency only needs to determine that the child is still a child with special needs for the child to be eligible for adoption assistance.

All other requirements in section 473(a) through (c) of the Act, the background check requirements in section 471(a)(20)(A) and (B) of the Act and 45 CFR 1356.30(b) and (c), the adoption assistance agreement requirements as defined in section 475(3) of the Act and regulations in 45 CFR 1356.40 and 1356.41 (to the extent that they are not superseded by the law) apply equally to both an applicable child and a non-applicable child.

Effective Dates of Adoption Assistance Eligibility Criteria for the Applicable Child

Applicable Child – Age. The State must apply the "applicable child" eligibility requirements to anyone who is an "applicable child" based on his or her age if the child has attained the applicable age, as indicated in section 473(e)(1)(B) of the Act, any time before the end of the Federal fiscal year during which the adoption assistance agreement is entered into. The applicable age for a child begins at 16 years old in FFY 2010 and decreases by two years for each fiscal year until a child of any age meets the applicable age requirements in FFY

2018. Beginning October 1, 2017, the applicable child eligibility criteria will apply to children of all ages. See the chart provided below for an illustration of this process.

		FEDERAL FISCAL YEAR October 1 – September 30								
		2010	2011	2012	2013	2014	2015	2016	2017	2018
HIGHEST AGE ATTAINED BY THE CHILD DURING FISCAL YEAR	18+									
	17									
	16									
	15						Applicable Child			
	14						Revised Eligibility Criteria Apply			
	13						(sec 473(a)(2)(A)(ii))			
	12									
	11									
	10									
	9									
	8									
	7		Not an applicable child –							
	6		Preexisting Eligibility Criteria							
	5		Apply							
	4			(sec. 473(a)(2)(A)(i))						
	3									
	2									
	1									
	0									

For example, the title IV-E agency enters into an adoption assistance agreement on behalf of a 15-year-old child on October 15, 2009. The child will turn 16 years old on January 3, 2010. Because the child turns 16 in FFY 2010, the applicable age during that fiscal year, the "applicable child" eligibility requirements apply. However, if the child in the same situation would turn 15 years old on October 5, 2009, s/he would not reach the applicable age before the end of the fiscal year (September 30, 2010). In that case, the child is "not an applicable child" and the eligibility criteria in section 473(a)(2)(A)(i) of the Act would apply.

Applicable Child – Time in Foster Care and Siblings. As of FFY 2010, the law also defines an "applicable child" to include: (1) a child who has been in foster care under the responsibility of the title IV-E agency for 60 consecutive months; or (2) a child who is a sibling of an applicable child by virtue of age or time in foster care and is placed in the same adoption arrangement as his/her sibling. A child under (1) and (2) above is not automatically eligible for title IV-E adoption assistance. In both situations, the title IV-E agency must apply the applicable child eligibility requirements, inclusive of the special needs criteria, as described in section 473(a)(2)(A)(ii) of the Act. The 60-consecutive-month period is any 60 consecutive months prior to the finalization of the adoption.

International Adoptions

Effective in FFY 2010, the Act specifically prohibits the payment of an adoption assistance payment (including payments of non-recurring expenses under section 473(a)(1)(B)(i) of the Act) on behalf of an "applicable child" who is not a citizen or resident of the United States (U.S.) and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted (see section 473(a)(7) of the Act). Existing policy for a "non-applicable" child continues at the Child Welfare Policy Manual Section 8.2B.6, Q/A #1.

Title IV-E Agency Option to Extend the Duration of Title IV-E Adoption Assistance Payments after October 1, 2010 (*Applicable Child AND Non-applicable Child*).

Beginning October 1, 2010, a title IV-E agency may extend the age that a child may receive adoption assistance payments and assistance up to age 19, 20 or 21 (at the title IV-E agency's option) if the title IV-E adoption assistance agreement was entered into after the child turned age 16 and the child meets certain conditions. These conditions are that, once s/he reaches age 18, the child is: 1) completing secondary school (or equivalent); 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity that promotes or removes barriers to employment; 4) employed 80 hours a month; or 5) determined incapable of any of the above due to a documented medical condition (section 475(8)(B)(iv) of the Act).

In addition to this option, the title IV-E agency remains able to provide adoption assistance payments up to age 21 to an "applicable" or "non-applicable child" when the agency determines that a child has a physical or mental handicap that warrants the continuation of assistance as provided for in section 473(a)(4)(A) of the Act.