

Child and Family Services Policy Manual: Adoption Adoptive Inquiry and Training

Adoptive Inquiry

People inquiring about adoption shall be referred to the Family Resource Specialist.

Currently licensed foster families seeking to be approved to adopt and formerly approved adoptive families whose approval to adopt has expired will be treated as new adoptive applicants. The fingerprint-based national criminal records checks (or qualification for an exception per policy 802-3) and the CPS background checks described in this section are required.

Division employees interested in adopting must be referred to a private adoption agency for completion of the pre-placement evaluation and post-placement supervision unless the employee is adopting a child who is kin. If the child meets the special needs criteria and qualifies for adoption assistance, then the costs of the private agency completing the pre-placement evaluation and post-placement supervision could be negotiated as non-recurring costs in the adoption assistance agreement up to the \$2,000 limit.

Information to be Provided

During the inquiry process, the Family Resource Specialist should provide the following information to the inquirer:

1. information about the availability of other licensed adoption agencies;
2. an explanation of the Division's policy and procedures regarding adoption;
3. information regarding the types of children available through the Division;
4. referral to families who have adopted and have agreed to share their experiences with others;
5. information regarding adoptive parent training (Keeping Children Safe, and Creating a Lifelong Family), which is a prerequisite to adoption; and
6. an adoption information packet that must also include the North American Council on Adoptable Children (NACAC) article regarding the possible Federal tax credit incentive for special needs adoptions. To obtain a copy of this NACAC article go to:
<http://www.nacac.org/taxcredit/taxcredit.html>

Child and Family Services Policy Manual: Adoption Adoptive Inquiry and Training

The Family Resource Specialist shall advise prospective applicants that there is no guarantee for placement of a child -- the Division finds parents for children rather than children for parents. The prospective adoptive parent(s) may be referred to additional training such as group meetings, self study, adoptive support groups and meetings with families who have adopted.

CAPS

The Family Resource Specialist should complete a provider search on CAPS and determine if the prospective adoptive parent(s) have a provider ID#. The RRD1 screen in CAPS should be completed to record the adoption inquiry.

Background Checks

For new adoptive applicants, immediately following the inquiry and prior to KCS (Keeping Children Safe) training, the assigned Family Resource Specialist shall obtain releases from the prospective adoptive parent(s) and other adults in the home, and begin the process of conducting criminal records, motor vehicle, and protective services background checks of the applicant(s) and other adults in the home, including:

- CPS check for possible child or elder abuse records;
- a search of CAPS (PERS);
- a CPS check with other States in which the applicants have resided since the birth date of the applicants' oldest child (or in the past five years if the oldest child is younger than five.) If applicants have no children, ARM 37.51.310 requires that the CPS check go back fifteen years.

If a State does not maintain a CAN registry, the State is not required by Section 471(a)(20)(C)(i) of the Social Security Act to provide information to a requesting State or check further for child abuse and neglect information within the State on a prospective adoptive parent or other adult living in the home. Once the FRS has verified that another State does not maintain a CAN registry, the FRS is not required to keep making requests to that State to make a registry check. Documentation of that verification (a letter from that receiving State) shall be kept in the

**Child and Family Services Policy Manual: Adoption
Adoptive Inquiry and Training**

applicant's file.

NOTE: Currently, Oklahoma does not have a CAN registry.

- motor vehicle records checks for applicants and other adults living in the home.
- fingerprint-based National Criminal Information Database (NCID) criminal records checks (or qualification for an exception per policy 802-3) for the applicants and other adults living in the home. Prospective adoptive parents seeking licensure for foster care who have satisfactory fingerprint based NCID criminal records checks or qualified for an exception at the same time as they are seeking approval to adopt will be considered to have met this requirement.

The prospective adoptive parent(s) should be provided with copies of the DPHHS-CFS-033 Personal Statement of Health for Licensure (or Adoption) for all members of the family. The prospective adoptive parent(s) must also provide copies of any and all divorce decrees or other orders related to domestic violence or child custody or visitation.

CPS Background Check

The Family Resource Specialist shall conduct a CPS background check on all prospective adoptive parent(s) and other adults living in the home. Any substantiated report of child abuse or neglect by either prospective adoptive parent or other person residing in the home must be fully examined by reviewing the files, if available, and contacting the Child Protection Specialist and/or the Child Protection Specialist Supervisor. The referral should also be discussed with the prospective adoptive parent(s). If prior substantiated abuse or neglect by either prospective adoptive parent does not disqualify the couple as being recommended for approval, the pre-placement evaluation must detail for the Regional Administrator's review, the allegations, reasons for substantiation and reasons why they should not be disqualified as adoptive parent(s).

If a substantiated abuse or neglect referral disqualifies a prospective adoptive parent for adoption, the Family Resource Specialist must ensure that the person received notice of the

Child and Family Services Policy Manual: Adoption Adoptive Inquiry and Training

substantiation and had an opportunity to have the substantiation reviewed before the substantiation is used to deny an application. To do this, the Family Resource Specialist should contact the Child Protection Specialist Supervisor and ask that person to verify the substantiation. If abuse or neglect is verified but no letter has been sent to the alleged perpetrator, the Child Protection Specialist Supervisor will send the letter of notification to the alleged perpetrator. A copy of the letter is to be forwarded to the Family Resource Specialist. The Family Resource Specialist may not deny an application for adoption based on the abuse or neglect until the person has had the allegations reviewed or their time for requesting the review has expired.

Criminal and Youth Court Records Checks

Completion of a criminal records check for prospective adoptive applicants is required by Mont. Code Ann. § 42-3-203(2)(a). This check must be by means of a fingerprint-based criminal records check of the National Criminal Information Database (NCID) for prospective adoptive applicants to the Division. (See policy 802-3 for criteria for exception to the fingerprint-based criminal records check requirement.)

The results of both the criminal and protective service checks must be satisfactory in order to approve the home for adoption.

If the criminal records check on the prospective adoptive parent(s) or other household members reveals a **felony conviction** at any time for any of the following crimes:

- child abuse or neglect;
- spouse abuse;
- a crime against children (including child pornography);
- a crime of violence, including rape, sexual assault or homicide (but not including other physical assault or battery),

the prospective adoptive parent(s) **shall not** be approved to adopt. If the criminal records check reveals a **felony conviction** within the past five years for any of the following:

Child and Family Services Policy Manual: Adoption Adoptive Inquiry and Training

- physical assault;
- battery; or
- a drug related offense,

the prospective adoptive parents shall not be approved.

Youth court records for any persons over age 13 living in the home may also be reviewed by Mont. Code Ann. § 42-3-203(2)(b). A release of information for the criminal justice agency should be signed by the applicant for themselves and any teen aged children living in the home. The release should be sent to the juvenile probation office in the county where the family resides, or resided when family members were teenagers. If the family has moved from another State, the worker does not need to attempt to obtain these records from the other State.

Reapproval of Current Adoptive Families

For currently approved adoptive families who were approved prior to 10/1/2006 with no gaps in approval status since that time, criminal records checks are to be done annually using State-wide name-based checks.

See also current CFSD Policy 802-3 regarding licensure of foster families and approval of adoptive families.

References

Social Security Act Section 471(a)
45 CFR 1356.30(a), (b), and (c)
Mont. Admin. R. 37.52.101 and 37.51.310
Mont. Code Ann. § § 42-3-203 and 204.
42 USC 670 Sec 471(20)(A)