



David A. Paterson  
Governor

NEW YORK STATE  
OFFICE OF CHILDREN & FAMILY SERVICES  
52 WASHINGTON STREET  
RENSSELAER, NY 12144

Gladys Carrión, Esq.  
Commissioner

## Administrative Directive

<b>Transmittal:</b>	10-OCFS-ADM-10
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development
<b>Date:</b>	September 8, 2010
<b>Subject:</b>	<b>Title IV-E Foster Care and Adoption to Age 21</b>
<b>Suggested Distribution:</b>	Directors of Services Foster Care Supervisors Adoption Supervisors Eligibility Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Programmatic questions should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: BRO – Mary Miller (716) 847-3145 <a href="mailto:Mary.Miller@ocfs.state.ny.us">Mary.Miller@ocfs.state.ny.us</a> RRO – Karen Buck (585) 238-8549 <a href="mailto:Karen.Buck@ocfs.state.ny.us">Karen.Buck@ocfs.state.ny.us</a> SRO – Jack Klump (315) 423-1200 <a href="mailto:Jack.Klump@ocfs.state.ny.us">Jack.Klump@ocfs.state.ny.us</a> ARO – Kerri Barber (518) 486-7078 <a href="mailto:Kerri.Barber@ocfs.state.ny.us">Kerri.Barber@ocfs.state.ny.us</a> SVRO – Pat Sheehy (845) 708-2498 <a href="mailto:Patricia.Sheehy@ocfs.state.ny.us">Patricia.Sheehy@ocfs.state.ny.us</a> NYCRO – Patricia Beresford (212) 383-1788 <a href="mailto:Patricia.Beresford@ocfs.state.ny.us">Patricia.Beresford@ocfs.state.ny.us</a>
<b>Attachments:</b>	Attachment A: Eligibility Re-determination Criteria and Documentation Requirements for Foster Children Over the Age of 18 or 19 Attachment B: Model letter, Parental Certification of Adopted Child’s Status Attachment C: Model form, Parental Certification of Adopted Child’s Status
<b>Attachments Available Online:</b>	All attachments are posted with this policy at: <a href="http://www.ocfs.state.ny.us/main/policies/external">http://www.ocfs.state.ny.us/main/policies/external</a> Attachment C (Form # OCFS-7073) is also posted at: <a href="http://www.ocfs.state.ny.us/main/Forms/adoption/OCFS-7073%20Parental%20Certification%20of%20Adopted%20Childs%20Status.dot">http://www.ocfs.state.ny.us/main/Forms/adoption/OCFS-7073%20Parental%20Certification%20of%20Adopted%20Childs%20Status.dot</a>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			Fostering Connections to Success and Improving Adoption Act of 2008	Eligibility Manual for Child Welfare Services; Federal Child Welfare	

## **I. Purpose**

The purpose of this Administrative Directive (ADM) is to provide guidance to social services districts (districts) about new requirements regarding Title IV-E foster care and adoption assistance eligibility until age 21, as enacted by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). These provisions become effective on October 1, 2010. In addition, this ADM includes a listing of Eligibility Re-determination Criteria and Documentation Requirements for Foster Children Over the Age of 18 or 19 (see Attachment A), and a new Model Letter (see Attachment B) and Model Certification Form OCFS 7073 (see Attachment C) pertinent to certain hard-to-place adopted children. The Eligibility Manual for Child Welfare Programs will be updated with this information (Chapters 1A and 1B) and a revised Re-determination of Title IV-E Eligibility Checklist (Foster Care) [LDSS 4810] will reflect these changes.

## **II. Background**

Historically, New York State has recognized the importance of supporting both foster and adopted children until the age of 21. (See statutory provisions in section 398(6)(h)&(i) of the Social Services Law (SSL) regarding foster care, and section 453(1)(a) of the SSL regarding adoption.) Until the passage of P.L. 110-351, which includes the particular provision effective October 1, 2010, that is the subject of this directive, Title IV-E reimbursement generally ended when a foster or adopted child reached the age of 18. The two exceptions to the termination of Title IV-E eligibility for foster care or adoption assistance once the child reaches the age of 18 in effect prior to October 1, 2010, and that continue after that date are: 1) where the foster child is under the age of 19 and is a full-time student expected to complete a program of secondary school or equivalent level of vocational or technical training before reaching age 19, and 2) for adopted children with a handicap, Title IV-E extends to the age of 21, where it is determined that the child has a mental or physical handicap which warrants the continuation of assistance.

Prior to P.L. 110-351 in New York State, when a foster child who had been Title IV-E eligible agreed to remain in foster care beyond his or her 18th birthday, Title IV-E claiming ceased on the child's 18th or 19th birthday, as applicable. Similarly, for Title IV-E eligible hard-to-place adopted children who reached age 18, Title IV-E claiming ceased, although New York State adoption subsidy continued to support the child until 21 years of age.

## **III. Program Implications**

P.L. 110-351 makes two significant changes to the issue of the duration of eligibility for Title IV-E reimbursement for foster care and adoption assistance. The first related to **foster care** is that for otherwise Title IV-E eligible foster children, federal reimbursement will be available until age 21, as long as the child is:

- completing secondary education or a program leading to an equivalent credential; or
- enrolled in an institution which provides post-secondary or vocational education; or
- participating in a program or activity designed to promote, or remove barriers to, employment; or
- employed for at least 80 hours per month; or
- incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated written or recorded information in the case plan of the child.

The second change related to **adoption assistance** is that for otherwise Title IV-E eligible hard-to-place adopted children, federal reimbursement will be available until age 21 if the child had attained 16 years of age before the adoption agreement became effective and the child is:

- completing secondary education or a program leading to an equivalent credential; or
- enrolled in an institution which provides post-secondary or vocational education; or
- participating in a program or activity designed to promote, or remove barriers to, employment; or
- employed for at least 80 hours per month; or
- incapable of doing any of the activities described above due to a medical condition. The federal Administration for Children Youth and Families (ACYF) allows states flexibility in how to address whether and how to document the medical condition and incapability for such youth, as there is no case plan for youth who have been adopted. See required Action, Adoption Assistance.

#### **IV. Required Action**

##### Foster Care:

Beginning October 1, 2010, for each Title IV-E eligible foster child who has agreed to remain in foster care after reaching the age of 18, on each such youth's 18th birthday and each birthday after that through age 20 (if the youth remains in foster care), the responsible district worker must perform a re-determination, using the revised Re-determination of Title IV-E Eligibility Checklist (LDSS-4810 Rev. 10/10). This Checklist includes the new criteria necessitated by the change in federal standards enacted by the Fostering Connections to Success and

Increasing Adoptions Act of 2008. Similarly, a redetermination is also to be performed by the responsible district worker for any youth in foster care who is already age 18 on October 1, 2010.

Please note: effective April 1, 2010:

Re-determination of a child's Aid to Families with Dependent Children (AFDC) financial eligibility, irrespective of the age of the foster child, is not required. Given the statutory changes over the years, ACYF has eliminated the former requirement to re-determine a child's AFDC eligibility at regular intervals as unnecessary for a program (AFDC) that has not been operational for nearly 14 years. Further, it found it was not possible to implement the option to extend Title IV-E assistance to youth in foster care age over the age of 18 and require such youth to be subject to AFDC re-determinations. To do so clearly would be inconsistent with the law's amendments to provide an option for extended Title IV-E assistance to older youth. Rather, a child must have met the AFDC eligibility requirements per section 472(a)(3) of the Social Security Act at the time of removal from the home or when a voluntary placement agreement was entered into to be eligible for Title IV-E foster care. ***This means that as of April 1, 2010, a child who has been determined AFDC eligible under Title IV-E at removal is considered to meet the AFDC need and deprivation requirements throughout the foster care episode regardless of subsequent changes in income, resources and parental deprivation.*** For the purpose of Title IV-E eligibility reviews, ACYF will not review whether annual AFDC re-determinations have been conducted for each child in the sample. See Q & A 8.4A of the federal Child Welfare Policy Manual.

In addition to the completion of the Checklist, sufficient documentation must be gathered to demonstrate how the youth meets one of the requirements for continued eligibility listed on Attachment A. Both the Checklist and the documentation supporting compliance with the above referenced federal standards must be retained in the child's eligibility file and both must be made available for any potential audit, including any future Title IV-E Eligibility Reviews.

For foster children who were eligible for Title IV-E and lost such eligibility prior to October 1, 2010, solely due to reaching age 18 (or age 19, as applicable), and remained continuously in foster care (same foster care episode) and are otherwise Title IV-E eligible, i.e. there is no break in legal authority, and youth has not been on a trial discharge for more than six months, Title IV-E eligibility is to be reinstated on October 1, 2010, provided however that an updated re-determination is made and demonstrates that the youth remains eligible on all applicable factors, including an annual court order determination that reasonable efforts have been made to finalize the youth's permanency plan.

Adoption Assistance:

Beginning October 1, 2010, for each Title IV-E eligible hard-to-place adopted child who had attained 16 years of age before the adoption agreement became effective, at least one month before such child's 18th birthday, the responsible district worker must send a letter and a certification form (using the models attached [see attachments B and C] or a comparable letter and certification form) to the adoptive parent(s), so they can provide the necessary information to establish continuing Title IV-E eligibility. This procedure must be repeated for each birthday after that through the child's 20th birthday, as long as Title IV-E is being claimed. A reasonable time for the return of the certification form should be indicated in the letter or on the certification form. In the event the form is not returned by the suggested due date, it is recommended that the form be sent a second time. If there is no response to the second inquiry, where possible, a phone call is recommended. In no event should an adoption subsidy be suspended or terminated due to failure to reply. If all efforts to secure the necessary documentation fail, federal Title IV-E claiming must cease, but the district must continue the adoption subsidy payments with state and local funding. Federal Title IV-E eligibility may be reinstated and retroactive, if a satisfactory reply is received after the claiming change. If a response is received that indicates that the federal standards (parental support, education, employment or medical condition) are not met, federal claiming must likewise cease.

Copies of all inquiry letters, and all certifications replying to the inquiry, are to be retained as part of the adoption subsidy payment record for at least six years from issuance of the inquiry letter, and accessible for potential audit purposes.

## **V. Systems Implications**

Effective October 1, 2010, the Welfare Management System (WMS) and the Benefits Issuance and Control System (BICS) will be enhanced to allow for authorization and claiming for foster care and adoption subsidy to age 21, as described in this release.

It is recommended that workers record an Anticipated Future Action (AFA) code in WMS one month before the applicable youth's 18<sup>th</sup>, 19<sup>th</sup> and 20th birthdays to remind them to review eligibility.

## **VI. Additional Information**

It is suggested that a log be kept of every child who had attained 16 years of age before the adoption subsidy agreement became effective, in order to assist with keeping track of which adoptive families need to be sent a letter and certification form and ensuing eligibility re-determinations.

Eligibility related staff are encouraged to take the iLinc courses on Title IV-E Foster Care and Adoption Assistance, as appropriate to their responsibility, even

if previously taken. The courses have been revised to include the changes provided in this ADM. Go directly to the CDHS website at <http://www.bsc-cdhs.org> and select the “STARS” option, then click on the arrow next to “Local District” and hover the mouse over On-line Registration, then click on “STARS Registration” where you will be prompted to log in. A list of all the trainings will appear; courses can be selected and you can register from that screen.

**VII. Effective Date**

October 1, 2010

*/s/ Nancy W. Martinez*

---

**Issued By:**

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

**Attachment A**  
**Eligibility Re-determination Criteria and Documentation Requirements**  
**for Foster Children Over the Age of 18 or 19**

<b>Title IV-E Foster Child Status</b>	<b>Documentation</b>
Completing secondary education or a program leading to an equivalent credential, e.g., a youth age 18 and older is finishing high school or taking classes in preparation for a general equivalency diploma exam. *	Name, location and type of school or program; grades, progress report, evaluation or other document from school or program that establishes youth attendance or enrollment.
Enrolled in an institution which provides post-secondary or vocational education, e.g., a youth could be enrolled full-time or part-time in a university or college, or enrolled in a vocational or trade school. *	Name, location and type of institution; grades, progress report, evaluation or other document from institution that establishes youth attendance or enrollment.
Participating in a program or activity designed to promote, or remove barriers to employment, e.g., a youth could be in Job Corps or attending classes on resume writing and interview skills. *	Name, location and program or activity description; statement from program or activity that establishes youth participation.
Employed for at least 80 hours per month, e.g., a youth could be employed part time or full time, at one or more places of employment.	Name of employer, company, agency or organization, location, nature of employment; statement from employer that establishes hours worked per month.
Incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated written or recorded information in the case plan of the child.	The child's medical condition must be documented by a physician, or a physician's assistant or nurse practitioner under the supervision of a physician, or a licensed psychologist.

\* An otherwise enrolled youth on a semester, summer or other break is considered enrolled.