

# Adoption Assistance



## Agenda



- Special needs definition
- Title IV-E eligibility
- Benefits
- Negotiation
- Renegotiation
- Interstate
- When does subsidy end
- Social Security and Subsidy
- Other welfare programs
- College assistance
- <https://www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs/>



## What is Adoption Subsidy?



- Adoption Subsidy is a program to help make possible the adoption of children with special needs.
- The program typically includes financial benefits and medical coverage to eligible children, and may provide other services.
- I will call this Adoption Assistance and Adoption Subsidy, they mean the same thing.
  - Title IV-E (4E) is federal and state funded (and county)
  - Non IV-E is only state funds (and county)



## Special Needs



- To qualify for subsidy, the child must meet the special needs definition
- Special needs also means “hard to place”
- The federal government has three parts to the special needs definition – one of which is set at the state level



## Federal Definition of Special Needs



- The federal definition of special needs consists of three parts:
  1. Child cannot and should not return home
  2. Reasonable efforts to place the child without adoption subsidy, exceptions include placing children with foster parents they have bonded with and relatives.
  3. State definition of special need
    - See Question 1 of state profile for state definition
    - <https://www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs/>



## State Definition of Special Needs



### Disabilities

- A child who has a certain documented physical, mental, or emotional issues.

### Hard to place

- Age
- Race
  - May only be for certain minorities
  - May have an age component
  - State language considers certain races to have barriers to adoption due to over-representation in care, or slower rates of permanency



## State Definition of Special Needs



### Sibling

- 2-4 siblings depending on state, may require that one sibling have another special needs.
- Best sibling definition includes: to join a sibling already adopted by the family

### High Risk

- May qualify for deferred agreement – a safety net for children with no known disabilities.
- State has to be able to document the risk factors.



## Title IV-E subsidy vs State only funded subsidy



- Title IV-E (4E) of the Social Security Act = federal funds. 50-75% Federal dollars and remaining State dollars (in some states, county dollars too).
- State only funded subsidy = Non Title IV-E. Every subsidy dollar paid by state (and in some states, county dollars too).
- You cannot get both a state subsidy AND a federal subsidy.



## How are children Title IV-E eligible?



- Previously, there were four ways for a child to be eligible for Title IV-E funding.
  1. Foster child received Title IV-E Foster Care that covers both the minor parent and infant at the time the adoption petition is filed
  2. Child received Title IV-E adoption subsidy in previous adoptive placement
  3. Child is eligible for Supplemental Security Income (SSI)
  4. Birth parents were AFDC eligible
    - > Yes, we are looking at birth parents who have had their parental rights terminated
    - > Yes, we are looking at their income using 1996 income guidelines



## Expanded Title IV-E Eligibility



- Beginning October 1<sup>st</sup>, 2009
- Can still be eligible from previous four criteria or by these new criteria:
  1. Children in foster care for 60 consecutive months
  2. Currently any child age 2 or older (after June 30, 2024 all ages).
  3. Siblings being adopted with their sibling when at least one sibling meets one of the new criteria (1 or 2).



## Why does Title IV-E matter to me?



- The state saves money—at least half of subsidy dollars is reimbursed by Federal Government
- Ohio and Louisiana will means test families if their child is not IV-E funded.
- Some states will not provide Medicaid to non IV-E children unless they have a disability that warrants Medicaid.
- Some states may operate the non IV-E program a little differently.
- A few states will not provide Medicaid if the child receives non IV-E adoption subsidy from another state. (Later slide)



## Adoption Subsidy—How Does it Support Families?



- Monthly maintenance payment
  - Basic maintenance, per diem, etc...
    - This is for children who are *hard to place* or have minor disabilities
  - Specialized service fee, Medically Fragile and Therapeutic, DOC/LOC, SCI, SSI rate
    - Higher than basic rate
    - Child must have a disability to get this higher rate
- Medicaid—automatically with IV-E
- Reimbursement of non-recurring adoption expenses, up to \$2,000, but state may set a lower limit than \$2,000.



## Negotiating subsidy rate



- Some states offer the maximum amount possible (up to the appropriate foster care rate for the child's current needs)
- Some states have lower maximum rates, and offer that amount without negotiation
- Ask for the maximum rate that child qualifies for
  - Some states limit the amount that is the maximum, lower than the foster care rate the child was receiving
- State is saving money—no longer managing foster care case
- The child's needs have not changed, so why should the amount of support?
- Document everything—especially get diagnosis
- If they ask for expenses, give them everything you can think of
- A few states are saying that the amount of the adoption subsidy should be based on the out of pocket expenses for the special needs of the child.



## Negotiating subsidy rate



- Federal Law: 42 USC 673 (a)(3)

The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and **the needs of the child being adopted**, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances.



## Negotiating subsidy rate



- Child Welfare Policy Manual, 8.2D.4
- **1. Question:** Please explain how the State agency should set rates for title IV-E adoption assistance payments.
- **Answer:** The amount of the adoption assistance payment cannot exceed the amount the child would have received if s/he had been in a foster family home, but otherwise must be determined through agreement between the adoptive parents and the title IV-E agency. Unlike other public assistance programs in the Social Security Act, the title IV-E adoption assistance program is intended to encourage an action that will be a lifelong social benefit to certain children and not to meet short-term monetary needs during a crisis. Further, the adoptive parents' income is not relevant to the child's eligibility for the program. Title IV-E adoption assistance is not based upon a standard schedule of itemized needs and countable income. Instead, the amount of the adoption assistance payment is determined through the discussion and negotiation process between the adoptive parents and a representative of the title IV-E agency based upon the needs of the child and the circumstances of the family. **The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child projected over an extended period of time and should cover anticipated needs, e.g., child care.** Anticipation and discussion of these needs are part of the negotiation of the amount of the adoption assistance payment.



## Renegotiating adoption subsidy



- You can request changes at any time, typically seeking an increase in the amount of support.
- Document the changes, what are the new diagnosis, did the diagnosis come from a proper professional?
- Request the change in writing, creating a paper trail
- Some states require that the disability be tied an unknown problem that was present before adoption.
- Change in family circumstance is grounds for asking for a change in adoption subsidy.
- Some states do not allow for renegotiation (NC, MI & TX) locking you into the rate at the time of adoption.





## Interstate adoption



- When children are in a state's foster care system, the adoption subsidy comes from the placing state.
- Medicaid comes from the adoptee's state of residence.
- Children receiving non IV-E (state only funded subsidy), Medicaid becomes complicated



## Medicaid in Interstate Adoptions



- Remember children receiving IV-E subsidy are statutorily eligible for Medicaid in ALL states.
- For children receiving non-IV-E subsidy, then it depends on the adoptive parent's state of residence COBRA reciprocity rules.
- Most states provide Medicaid to children residing in their state who have non IV-E subsidy from another state.
- IL, HI, NM, and NV will not provide Medicaid to children adopted from ANY other state who only receives a non IV-E subsidy
- IA, NY and PA will not provide Medicaid to children adopted from IL, HI, NM and NV with a non IV-E adoption subsidy.

Information on COBRA reciprocity from AAICAMA



## When does subsidy end?



- Normally adoption subsidy ends at age 18.
- Some states will continue adoption subsidy to age 21 if the child has a disability that warrants continuation of the adoption subsidy.
- Some states will provide assistance to children still in school, usually with state dollars.
- Some states have opted into Fostering Connection program to provide extended benefits if criteria are met for youth adopted at age 16 or 17.
- In a few states the criteria for extension will be different based on funding stream.



## When do subsidies end, page 2



- Subsidy can end before age 18 if the parents are no longer legally responsible or financially supporting a child.
- You are no longer legally responsible if your parental rights are terminated, the child enlists in the military, marries, or is an emancipated minor
- A state may determine you are still financially responsible if you are paying for therapy, gifts, etc...
- Important!!! – if the child re-enters foster care for services or goes into a residential treatment facility, and you are receiving Title IV-E adoption assistance. The state is NOT allowed to reduce or suspend your subsidy without your agreement.
  - Equally as important you do not want the case to be referred to child support



## Social Security Administration and Adoption Subsidy



- If a child receives Supplemental Security Income (SSI), then SSI MUST be reduced dollar for dollar, this is called “concurrent receipt of federal benefits” or you can think of it as “double dipping”
- Social Security benefits received on behalf of the (adoptive or birth) parent, and the accompanying dependent benefits do NOT require a dollar for dollar reduction in subsidy benefits.



## Other Welfare Programs and Adoption Subsidy



- While the IRS does not count adoption subsidy as income, other programs may count it as income in determining eligibility
  - School Lunches count 100% of subsidy in family income.
  - Food Stamps count 100% of subsidy in family income.
  - Section 8 housing counts \$480 per year per child of the subsidy in family income.
  - Low Income Home Energy Assistance Program (LIHEAP)—the federal government allows the state agency to set what is excluded income.
  - Free Application for Federal Student Aid (FAFSA) does not count subsidy in family income.
  - Bankruptcy Chapter 7 and 13 – don’t include benefits paid under the Social Security Act (Title IV-E).



## College assistance



- Children adopted at age 13 or older from foster care can apply for FAFSA as an independent student.
- Children adopted from foster care after their 16 birthday can be eligible for Education and Training Vouchers.
- Some states have tuition waiver programs
  - The children have to be adopted from the state's foster care system.
  - Tuition waived is typically for state colleges and universities of the state the child was adopted from.
  - Eligibility maybe dependent on age at time of adoption
  - There may be time limits on how long the adoptee can utilize the tuition waiver.



## Any final questions on Adoption Subsidy?



- More information on our web site, [www.nacac.org](http://www.nacac.org)
- You can call our office, 651-644-3036 x115 or 1-800-470-6665 x115
- You can e-mail me, [joshk@nacac.org](mailto:joshk@nacac.org)

