

Chapter 5

ADOPTION ASSISTANCE

5-1. Overview. Authorized by the Social Security Act (the Act), states with an approved Title IV-E State Plan receive federal reimbursement for ongoing maintenance adoption subsidy (MAS), Medicaid, and associated costs to achieve adoption of children who meet Special Needs criteria as defined in the Act. For further information on program requirements and benefits, refer to CFOP 170-12, Chapter 1. For further information on adoption Medicaid, refer to CFOP 170-15, Chapter 2.

a. Title IV-E adoption assistance is available to any child who meets Special Needs criteria and the eligibility requirements provided in section 473 of the Act. The Department/lead agency will provide adoption assistance to every child it determines is eligible unless the prospective adoptive parent(s) decline such assistance. The Department/lead agency is prohibited from imposing additional eligibility requirements not contained in federal law.

b. The determination of eligibility for adoption assistance and administration of benefits are the responsibility of the Department as the Title IV-E agency, regardless of whether the child is committed to the Department or to a private child-placing agency for the purpose of adoption or independent adoption. Regardless of adoption type, the lead agency is responsible for processing the documentation in FSFN to determine eligibility and to provide adoption assistance benefits.

c. For children who meet the program-related criteria for adoption assistance as outlined in Section 409.166, F.S., 65C-16, F.A.C., and CFOP 170-12, the funding source for MAS comes from Title IV-E, TANF, or state funds. This chapter describes the eligibility requirements for each fund source.

5-2. Adoption Assistance Agreement and Payment.

a. The Adoption Assistance Agreement (AAA) (form CF-FSP [5079](#), available in DCF Forms) must indicate the funding source and the amount of the negotiated MAS, Medical Assistance, and Non-Recurring Adoption Expense amounts. The AAA must be signed and dated, prior to adoption finalization, by the prospective adoptive parent(s) and DCF representative prior to adoption assistance being effective and issued. The only exception is when the adoptive parent(s) have obtained a favorable fair hearing decision after finalization. A favorable fair hearing decision after the finalization of the adoption may allow the Department/lead agency to determine that a child met all the eligibility criteria prior to finalization.

b. The funding source (Title IV-E, TANF, or state funds/general revenue) must be presumptively determined prior to the signing of the AAA. If the funding source changes, an AAA Update must be signed and completed in FSFN identifying the new funding source.

c. The MAS amount may be adjusted when there is an across-the-board statewide reduction or increase in the foster care maintenance payment rate which impacts the base MAS rate established in Rule [65C-16.013\(7\)](#), F.A.C. In this circumstance, the state may adjust the MAS payment without the adoptive parent's concurrence. All other adjustments must be made with the concurrence of the adoptive parent by the signing of an AAA Update. The effective date of a payment increase is as of the date the written request is made by the adoptive parent(s).

d. If there is a change in eligibility, an updated AAA must be completed and signed by the adoptive parents and Department designee indicating the new subsidy type. The AAA must be updated in FSFN.

e. Termination of the AAA and payment coincides with program criteria outlined in Rule [65C-16.013](#), F.A.C.

f. The Department/lead agency must not "transfer" the child's payment to anyone after the adoptive parent(s) die or the adoption is dissolved. Continued Title IV-E adoption assistance eligibility and payments are not authorized for a child placed with an individual who is not adopting the child or in situations where the child is placed with a legal guardian.

5-3. Eligibility Criteria for All Fund Sources.

a. Special Needs. There are three elements that must be met for a child to meet the requirements of the Special Needs definition.

(1) The child cannot or should not be returned to the home of the parents. This determination is based on:

(a) An order from a court of competent jurisdiction that terminates parental rights;
or,

(b) The existence of a petition to the court for a termination of parental rights (TPR); or,

(c) A signed relinquishment by the parent(s); or,

(d) If a child can be adopted in accordance with Tribal law without a TPR or relinquishment.

(2) Hard-to-Place Factor. There is a specific factor or condition which makes it reasonable to conclude that the child cannot be placed with adoptive parent(s) without providing adoption assistance. The specific factors or conditions include one of the following:

(a) The child meets all the medical or disability requirements for SSI.

(b) The child meets one of the following requirements:

1. Is 8 years of age or older; or,

2. Is developmentally delayed; or,

3. Has a physical, mental, or emotional disability; or,

4. Is of black or racially mixed parentage (at least one parent is black);

or,

5. Is a member of a sibling group of any age, provided two or more members are placed together for adoption; or,

6. Is at risk of a medically diagnosed condition.

7. A significant emotional attachment to their foster parent. Note: If this is the only factor present, the criteria for Hard to Place is not met for Title IV-E funding.

(3) Reasonable Effort to Place Without Subsidy. A reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance. The only exception to this requirement is where it would be against the best interests of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of such prospective adoptive parents as a licensed or relative placement.

b. Citizenship and Immigration Status. The lead agency must verify that the child meets required citizenship or immigration status. Children who are non-citizens or undocumented immigrants are not eligible for adoption assistance.

(1) The child must be a United States citizen or a qualified non-citizen. The definition of qualified non-citizens includes, but is not limited to, permanent residents, asylees, and refugees (see the U.S. Citizenship and Immigration Service website at www.uscis.gov/portal/site/uscis for more details).

(2) In addition, section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires qualified non-citizens entering the United States on or after August 22, 1996, to live in the United States for five years before becoming eligible for certain federal public benefits. However, federal payments for adoption assistance are excluded from this five-year residency requirement if the child and the adoptive parent(s) with whom he or she is placed are qualified non-citizens. Accordingly, if an adoptive parent is not a qualified non-citizen, a child who is otherwise eligible must meet the five-year residency requirement to receive adoption assistance.

(3) Children who are not U.S. citizens or qualified non-citizens and were either adopted in another country or brought to the U.S. for adoption are ineligible for adoption assistance, except when the child meets the Title IV-E eligibility criteria after the dissolution of the international adoption.

c. Abuse Registry and Criminal Background Checks. The Department/lead agency must determine that prospective adoptive parent(s) of the child and household members meet background check requirements. In addition to federally required fingerprint-based national checks and abuse/neglect registry checks, the following must be met:

(1) The Department/lead agency or adoption entity must conduct background checks in accordance with 65C-16, F.A.C.

(2) Adoption assistance is not available if the criminal record checks reveal that a prospective adoptive parent has a disqualifying conviction pursuant to section [39.0138\(3\) or \(4\)](#), F.S.

(3) Pursuant to section 65C-16.005(9), F.A.C, if the applicant or any other adult household member was named as caregiver responsible in a report verified for sexual abuse the home study must be denied and the child is not eligible for adoption assistance pursuant to section 409.166(5)(a) F.S.

5-4. Eligibility for Title IV-E Adoption Assistance.

a. Title IV-E is the preferred funding source to allow for federal reimbursement. Thus, a Title IV-E Adoption Eligibility determination must be made in the Department's child welfare information system for every child meeting program-related criteria as defined in CFOP 170-12, Chapter 1, before the signing of an Adoption Assistance Agreement.

b. The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) removed the AFDC criteria from Title IV-E adoption assistance eligibility requirements. This law provides a nine-year transition period during which a child is treated as an "Applicable Child" or "Not

Applicable Child.” The Families First Prevention Services Act of 2018 (P.L. 115-123) delayed the phase-in of Applicable Child requirements.

c. Applicable Child Criteria. An Applicable Child is a child who meets at least one of the three criteria. A Not Applicable Child is a child who does not meet any of the three criteria:

(1) Meets the applicable age for the federal fiscal year in which the AAA is effective (see Table 5-1 below); or,

(2) Has been in foster care for at least 60 consecutive months; or,

(3) Is a sibling to an eligible Applicable Child if both have the same adoption placement. This criterion is also met if a sibling will be placed into an adoption placement in which a sibling has already been adopted.

Table 5-1: Applicable Age by Federal Fiscal Year

Federal Fiscal Year	The applicable age is:	Federal Fiscal Year	The applicable age is:
10/01/2009 – 09/30/2010	16	10/01/2010 – 09/30/2011	14
10/01/2011 – 09/30/2012	12	10/01/2012 – 09/30/2013	10
10/01/2013 – 09/30/2014	8	10/01/2014 – 09/30/2015	6
10/01/2015 – 09/30/2016	4	10/01/2016 – 09/30/2017	2
10/01/2017 – 12/31/2017	any age	01/01/2018 – 06/30/2024	2
07/01/2024 – or thereafter	any age		

d. Eligibility Path. There are separate Eligibility Paths to determine if an Applicable Child or a Not Applicable Child is eligible for Title IV-E adoption assistance.

(1) An Applicable Child who meets the Special Needs criteria must meet one of the four eligibility requirements described below:

(a) At the time of the initiation of adoption proceedings, the child was in the care of a public or licensed private child-placing agency or Indian tribal organization pursuant to:

1. A court-ordered removal in accordance with a judicial determination to the effect that it was contrary to the welfare (CTW) of the child to remain in the home; or,

2. A voluntary placement agreement or voluntary relinquishment. For an Applicable Child who is in placement due to a voluntary placement agreement, a Title IV-E foster care payment does not have to be made.

NOTE: For permanent guardianship cases reinstated for the sole purpose of adoption by the permanent guardian, this determination is made in regard to the removal episode which resulted in permanent guardianship.

(b) The child meets all medical and disability requirements of Title XVI with respect to eligibility for SSI benefits. The child does not have to meet the needs-based requirements for SSI. Documentation from the Social Security Administration must indicate the child’s eligibility.

(c) The child is the child of a minor parent residing in a foster family home or child caring institution with his or her minor parent and the minor parent was removed from home pursuant to either:

1. A court-ordered removal in accordance with a judicial determination to the effect that it was CTW of the child to remain in the home; or,

2. A voluntary placement agreement or voluntary relinquishment.

(d) The child was Title IV-E eligible for 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.

(2) A Not Applicable Child who meets the Special Needs criteria must meet one of the four eligibility requirements described below:

(a) The child was removed and placed in foster care through a court-ordered removal with a judicial determination that continuation in the home would be contrary to the welfare of the child or a voluntary placement agreement to which federal payment was provided, and AFDC criteria was met.

NOTE: For permanent guardianship cases reinstated for the sole purpose of adoption by the permanent guardian, this determination is made in regard to the removal episode which resulted in permanent guardianship.

1. This determination is documented in the Title IV-E foster care eligibility determination and is system derived. See paragraph 4-7 of this operating procedure for more details.

a. If a child was removed pursuant to a Voluntary Placement Agreement (VPA), there must have been at least one Title IV-E foster care maintenance payment (consistent with section 472(a)(2)(B) and 473(a)(2)(A)(i)(I) of the Act) made on behalf of the child for the child to be eligible for Title IV-E adoption assistance. A child who is relinquished to a public or a private, non-profit agency, or placed with a private, non-profit agency under a voluntary placement agreement, can be considered judicially removed under the following circumstances:

b. The child is voluntarily relinquished either to the Department (or another public agency with which the Department has a Title IV-E Interagency Agreement), or voluntarily placed with a private, licensed non-profit agency; and,

c. There is a petition to the court to remove the child from his or her home within six months of the time the child lived with the specified relative from whom he or she was relinquished or voluntarily removed; and,

d. There is a subsequent judicial determination to the effect that remaining in the home would be CTW of the child; and,

e. The child met AFDC criteria.

(b) The child is determined eligible for SSI benefits.

(c) The child is the child of a minor parent who received at least one Title IV-E maintenance payment while in foster care which covered the child's cost of care while the child was with the minor parent in foster care.

(d) The child was eligible for Title IV-E adoption assistance in a previous adoption and is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died.

5-5. Eligibility for TANF Funded Adoption Assistance. When a child has been determined ineligible for Title IV-E adoption assistance, the next preferred funding source is Temporary Assistance for Needy Families (TANF).

a. An eligibility determination for TANF must be completed for all children who have been determined ineligible for Title IV-E adoption assistance. To be eligible for TANF, the child must meet the following requirements.

(1) Not reached 18 years old;

(2) Never been emancipated;

(3) Resides in Florida;

(4) Is a U.S. citizen or a qualified non-citizen;

(5) Determined to be a child who meets Special Needs criteria;

(6) Has gross income below 200% of the current FPL; and,

(7) Is living with a specified relative (adoption finalization establishes a specified relative relationship between the child and his or her adoptive parents).

b. Initial TANF Eligibility Determination.

(1) An initial TANF eligibility determination must be approved in FSFN within 10 calendar days from the AAA and Adoption Eligibility effective date. The effective date of the TANF is the same date the AAA, Adoption Eligibility, and pre-adoptive placement are effective.

(a) Lead agency staff will review and validate system-generated responses and populate user-answered questions on the Adoption TANF eligibility module in FSFN.

(b) The lead agency supervisor will review the Adoption TANF for accuracy and completeness to approve the child's eligibility for TANF in FSFN. The supervisor approving the child's eligibility cannot be the same person who completed the determination.

c. Redetermination TANF Eligibility. Adoption TANF redeterminations must be completed in FSFN every 12 months for TANF eligible children, or when certain events occur requiring a review before the 12th month.

(1) Annual/12-Month TANF Redeterminations. For TANF eligible children, a TANF redetermination must be completed before the expiration of the current Adoption TANF.

(a) The TANF Eligibility Determination Due Report from FSFN must be used to identify when a TANF redetermination is due.

(b) At a minimum, 60 days prior to the expiration of the current Adoption TANF determination, the lead agency must send the TANF Adoption Eligibility Redetermination Worksheet, or comparable form, to the adoptive parents via mail or electronically.

1. If not returned, resend at 30 days from the expiration date.

2. If still no response, prior to the expiration of the current Adoption TANF, the post adoption case manager or designee will call the adoptive parent(s) to obtain the information. This conversation and information must be entered in case notes in FSFN.

(c) When information is received, process the eligibility redetermination in FSFN prior to the expiration of the existing TANF eligibility.

1. If the eligibility determination remains the same, make no changes to the AAA.

2. If the eligibility determination changes based on the redetermination, the change in subsidy type must be made to the FSFN AAA and a signed AAA Update must be executed with an effective date that represents the date in which the change occurred, or date notification was received if the date the change occurred is unknown.

NOTE: An updated AAA is not generated when there is a change in fund source from TANF to state funds due to the family failing to correspond with the Department.

3. If the eligibility period has expired and the information was not received, process the eligibility redetermination within five calendar days utilizing the “No Response Received” checkbox in FSFN. The child is ineligible for TANF MAS.

(2) Events Requiring Redetermination.

(a) A TANF redetermination must be completed in FSFN when one of the changes listed below occurs.

1. Family no longer resides in Florida; or,

2. Child’s income changes.

(b) If the eligibility determination changes based on the redetermination, communication must occur to the appropriate lead agency staff to sign an AAA Update with the adoptive parent(s) to reflect the change in funding type and to complete a FSFN AAA with an effective date that represents the date in which the change occurred.

5-6. State Funded Adoption Assistance. The state funded adoption assistance is granted only when it is determined that the child is ineligible for both Title IV-E and TANF adoption assistance for a child meeting all program requirements as outlined in this chapter and CFOP 170-12.

5-7. Responsibilities of the Department and Other States’ Agencies in Interstate Adoptions. If a state Title IV-E agency has responsibility for placement and care of a child, that state is responsible for entering into the AAA and paying the adoption subsidy for the child. However, if the child is not under the placement and care responsibility of the state Title IV-E agency, the child welfare agency in the adoptive parents’ state of residence is responsible for determining whether the child meets the definition of special needs, entering into the AAA, and paying the subsidy.

5-8. FSFN Documentation. All eligibility must be documented in and determined by FSFN. A Title IV-E Foster Care Eligibility Determination must be completed in FSFN before initiating adoption eligibility. Please refer to Chapter 4 of this procedure for further information on Title IV-E foster care eligibility. Prior to initiating the Adoption Eligibility in FSFN, confirmation must be obtained that the adoption program FSFN data entry has been completed per CFOP 170-12, Chapter 1.

a. Title IV-E Eligibility. The Adoption Eligibility page in FSFN must be completed, but not approved, within two weeks of the request or notification of all required documentation being uploaded in FSFN.

(1) The Effective Date of Adoption Eligibility page must reflect the Effective Date of the AAA.

(2) Documentation supporting the Eligibility Path for Title IV-E eligibility must be uploaded in the FSFN File Cabinet.

b. TANF Initial Eligibility. The Adoption TANF eligibility page in FSFN must be approved within 10 calendar days from the AAA and Adoption Eligibility effective date.

(1) The Effective From date on the Adoption TANF page must reflect the Effective Date of the AAA.

(2) If a child has income, it must be documented in the Assets and Employment page and supporting documentation must be uploaded to the FSFN File Cabinet under the Image Category of Assets and Income.

c. TANF Redetermination Eligibility.

(1) The Effective From date of Adoption TANF page for a redetermination must reflect the day after the Effective To date of the most current Adoption TANF page or the actual date an event occurred which requires the review of adoption TANF eligibility.

(2) If a child has income, it must be documented in the Assets and Employment page and supporting documentation must be uploaded to the FSFN File Cabinet under the Image Category of Assets and Income.

Adoption Assistance Checklist

All documents listed below must be uploaded or documented in FSFN.

1. Legal

- 1.1 Involuntary Removal:**
- 1.1.1 Shelter petition. Date: _____
- 1.1.2 Removal/shelter order. Date: _____
- 1.2 Voluntary Removal**
- 1.2.1. Voluntary Placement Agreement (VPA). Date: _____
- 1.3. Voluntary Surrenders**
- 1.3.1. Petition for contrary to the child's welfare. Date: _____
- 1.3.2. Subsequent court order with contrary to the child's welfare judicial determination. Date: _____
- 1.4. Termination of Parental Rights (TPR)**
- 1.4.1. TPR petition. Date: _____
- 1.4.2. TPR order on all parents. Date: _____
- 1.5. Adoption finalization**
- 1.5.1. Petition for adoption finalization. Date: _____
- 1.5.2. Final judgment of adoption order. Date: _____

2. Citizenship

- 2.1 Documentation of citizenship or qualified non-citizen (Birth Certificate, Declaration of Citizenship, immigration visas, etc.)

3. Special Needs Factors

- 3.1 Medical or disability requirements for SSI.
- 3.2 Child cannot return home (may be same as 1.4.2. TPR order).
- 3.3 Hard to place condition or factor.
- 3.4 Reasonable effort to place without subsidy.

4. Backgrounds Checks

- 4.1. National/federal clearance. (Current within 5 years of adoptive placement. Nonrelative caregivers or potential adoptive parent who is not a current caregiver, current within 1 year of adoptive placement) Date completed: _____
- 4.2. State clearance. (Current within 90 calendar days of adoptive placement) Date completed: _____
- 4.3. Local clearance. (Current within 90 calendar days of adoptive placement) Date completed: _____
- 4.4. Florida Abuse Hotline abuse and neglect checks clearance. (Current within 30 calendar days of adoptive placement) Date completed: _____
- 4.5. Adam Walsh Abuse Registry checks from other states for household members who have lived in another state during the previous five years on or after 10-1-2006. Date completed: _____

5. Eligibility Path – Applicable Child

- 5.1. SSI-Related Documentation**
- 5.1.1. Medical or disability requirements for SSI are met by child.
- 5.2. Prior Title IV-E Adoption Assistance Eligibility**
- 5.2.1. Documentation of child's previous eligibility for Title IV-E Adoption Assistance.
- 5.2.2. Child continues to meet Special Needs criteria.
- 5.3. Child of a minor parent who was in foster care with the parent**
- 5.3.1. Parent's involuntary removal court order with a contrary to the child's welfare judicial determination. Date: _____
- 5.3.2. Parent's voluntary placement agreement. Date: _____
- 5.4. Child in the care of a public agency, licensed private agency or Indian Tribal Organization.**
- 5.4.1. Child's involuntary removal court order with a contrary to the child's welfare judicial determination (same as 1.1.2.).
- 5.4.2. Child's voluntary placement agreement (same as 1.2.1.).
- 5.4.3. Child's voluntary relinquishment.

6. Eligibility Path – Not Applicable Child

- 6.1. SSI-Related Documentation**
- 6.1.1. All requirements for SSI are met by the child.
- 6.2. Prior Title IV-E Adoption Assistance Eligibility**
- 6.2.1. Documentation of child's previous eligibility for Title IV-E Adoption Assistance.
- 6.2.2. Child continues meet Special Needs Criteria.
- 6.3. Child of a minor parent who was in foster care with the parent**
- 6.4.1. Documentation of foster care board payment for the minor parent included the cost of the child residing with the minor parent.
- 6.4. AFDC Eligible child in the care of a public agency, licensed private agency or Indian Tribal Organization.**
- 6.4.1. Child's involuntary removal court order with a contrary to the child's welfare judicial determination (same as 1.1.2.).
- 6.4.2. Child's voluntary placement agreement (same as 1.2.1.).
- 6.4.3. Child's voluntary relinquishment (includes subsequent court order with contrary to the child's welfare judicial determination).
- 6.4.3. Documentation supporting child met AFDC criteria.

7. Adoption Assistance Agreement

- 7.1. CF-FSP 5079 Initial and Subsequent Adoption Assistance Agreements** - (meets all requirements: signed and dated by all parties prior to Title IV-E payments and prior to adoption finalization, with child's name, type, Effective Date, and amount of subsidy, and amount and nature of other payments including non-recurring benefit and medical subsidy, as appropriate).
- 7.2.** Amount of adoption assistance does not exceed actual foster care board rate including supplemental such as medical without documented approval by the Department.