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Required Actions:	Determine the appropriate adoption subsidy under revised guidelines
Key Words:	Adoption Assistance Program, State Funded Adoption Assistance ICAMA, Federal IV-E with Family First Prevention Services Act Provisions
Related Federal Law	Section 473 of the Social Security Act
Related State Laws	Maryland Family Law Article Section 5-406 through 5-412
COMAR	07.02.12
Title IV-E State Plan Referenced?	Yes



Legal Information & Purpose:

The purpose of this policy directive is to establish a protocol and provide guidance to the Local Departments of Social Services (LDSS) on the revised adoption assistance procedures.

This policy directive will provide guidelines in the following areas:

- Federal (IV-E) and State-funded adoption assistance eligibility requirements.

The IV-E program permits agencies to claim reimbursement for a portion of foster care expenditures for children who are removed from home and placed in foster care.

- Family First Prevention Services Act (FFPSA) provisions for adoption assistance.

The Family First Prevention Services Act (FFPSA) provides for services to families who are at risk of entering the child welfare system. Under FFPSA, the aim is to keep children safely with their families or ensure that they are placed in the least restrictive, most family-like setting appropriate when there is a removal. FFPSA also enhanced support for critical services such as mental health care, substance abuse treatment, and family therapy that can help prevent the need for foster care in the first place. As it relates to Adoption Assistance payments, FFPSA requires states to develop an electronic intrastate case processing system to expedite interstate placements. This process will also ensure timely processing of adoption assistance payments.

As a result of FFPSA, this policy changes the Applicable child timelines as noted in the chart on page 3.

Policy:

The Adoption Assistance Program is dedicated to sustaining the health and welfare of special needs children who have been adopted. This assistance is available for those families adopting children who are under the guardianship of a LDSS or a licensed child placement agency, or who are adopted pursuant to a consensual adoption through a LDSS. Adoption assistance (also known as adoption subsidy) provides vital support to families raising children with serious behavioral, emotional, or physical disabilities. With adoption assistance, families are able to access medical care, counseling or therapy, special equipment, tutoring programs, and other supports that help them address their children's special needs. Children who are eligible for adoption assistance will receive the amount negotiated by the LDSS, or in some cases the Social Services Administration (SSA), and the family. Prior to negotiating the adoption assistance agreement, the LDSS should advise the adoptive family of the purpose of adoption assistance and the eligibility requirements.

Prior to an adoption assistance agreement being negotiated and signed, the IV-E Specialist must determine whether the child is an "Applicable child" or a Non-Applicable child, as different conditions apply. Types of assistance include monetary payment, Medical Assistance, and non-recurring adoption expenses. Adoption assistance rates are not established solely on the criteria of the child's current foster care rate but can be no more than the foster care maintenance payment that the child would have received in a foster family home during the same time period.

The LDSS and the adoptive family must negotiate assistance rates. Once established, a federal adoption assistance payment cannot be adjusted without the agreement of the adoptive family or unless the subsidy meets one of the criteria for termination or suspension. The LDSS may renegotiate an adoption assistance agreement if the adoptive parents request an increase in payment due to a change in their or the child's circumstances and a higher foster care rate would have been paid on behalf of the child if the child had still been in foster care. The Adoption Assistance Agreement renews annually.

Procedural Guidance:

The LDSS should determine if the child meets the general requirements for an adoption subsidy, which require that the child have been under the guardianship of a local department or a licensed private placement agency or have been adopted in a consensual adoption pursuant to Family Law Article § 5-338, Annotated Code of Maryland; the child meets the special needs requirements; and reasonable but unsuccessful efforts have been made to place the child without assistance unless the child is being adopted by their foster parent and has significant emotional ties with that person.

FEDERAL IV-E ADOPTION ASSISTANCE

Eligibility Requirements:

Prior to an adoption assistance agreement being negotiated and signed, the IV-E Specialist must determine whether the child is eligible for IV-E adoption assistance. When determining IV-E adoption assistance eligibility, a child may be eligible as an "Applicable child" or as a "non-Applicable child". If the child is not eligible for a IV-E adoption assistance subsidy, the child may be eligible for a State subsidy provided they meet all of the other eligibility requirements. (See also related SSA Policy Directive # 22-06 regarding Applicable child criteria).

In determining eligibility for adoption assistance payments, there is no income eligibility requirement (means test) for the adoptive parents.

APPLICABLE AND NON-APPLICABLE CHILD

An Applicable child is, in general, a child whose title IV-E eligibility is not linked to the former AFDC program and for whom the new program rules apply. The Applicable child requirements apply only to children who will be age two or older by the end of the federal fiscal year their adoption assistance agreement was entered into. However, a child may still be considered "an Applicable child" if the child is a sibling of an "Applicable child" and meets requirements as detailed at section 473(a)(2)(A)(ii) of the Act. Title IV-E adoption assistance agreements entered into prior to January 1, 2018, are not affected by these changes. As such, the Applicable child criteria are as follows:

1. On the basis age: Beginning January 1, 2018, Title IV-E agencies must determine whether a child is an "Applicable child" based on the child's age by the end of the federal fiscal year their adoption assistance agreement was entered into as set out in the table

below:

16-18	October 1, 2009- September 30, 2010	4-18	October 1, 2015- September 30, 2016
14-18	October 1, 2010- September 30, 2011	2-18	October 1, 2016- September 30, 2017
12-18	October 1, 2011- September 30, 2012	0-18	October 1, 2017- December 31, 2017
10-18	October 1, 2012- September 30, 2013	2-18	January 1, 2018- June 30, 2024
8-18	October 1, 2013- September 30, 2014		*** Note: Must be age 2 by end of federal fiscal year
6-18	October 1, 2012- September 30, 2013	0-18	July 1, 2024 Any age is applicable child
None of the ages apply for the below:			

2. Duration in care: A child has been in foster care under the responsibility of an LDSS for 60 consecutive months; or
3. Is a child who is the sibling of an Applicable child meets the age or time in foster care requirements outlined above and is placed in the same adoptive home within the federal fiscal year that the adoption is being finalized and meets other program criteria including special needs.

If the child meets the above criteria (#1, 2, or 3) and has “special needs” as defined below, they are considered an Applicable child. In order to be eligible for IV-E adoption assistance, an Applicable child must also meet the other eligibility criteria including being under the guardianship of a local department or a licensed private placement agency, meeting disability or medical requirements for SSI¹, being eligible for IV-E in a prior adoption, or being the child of a minor parent in an out-of-home placement.

A child with “special needs” is a child who has a specific factor or condition, as set out below, because of which it is reasonable to conclude that the child cannot be adopted without providing the family with adoption assistance including Medical Assistance. To be a special needs child, the child must meet the criteria in 1, 2, and 3 below.

1.
 - a. The child is 6 to 17-years-old;
 - b. The child has a physical or emotional disability or disease;
 - c. The child has an emotional disturbance;
 - d. The child is a member of a sibling group;
 - e. The child is recognized as being at high risk of physical or mental disease; **or**
 - f. The child’s race or ethnicity is considered in combination with any one of the

¹ The “special needs” criteria for an Applicable child differ from the special needs criteria for a non-Applicable child as follows: if an Applicable child meets all the medical or disability requirements for SSI, the criteria for the factor or condition element of the special needs determination will have been met.

above conditions or factors; **and**

2. The child cannot or should not be returned to the home of the parents, in accordance with criteria that the Title IV-E agency (DHS) has established; **and**
3. Reasonable, but unsuccessful, efforts have been made to place the child with adoptive parents without providing adoption assistance or Medical Assistance, unless such efforts are excused because of significant emotional ties between the child and their foster parent.

If a child is not a U.S. citizen or resident and has been adopted outside the U.S. or brought to the U.S for the purpose of being adopted, the child cannot be an Applicable child.

If the child does not meet the criteria for an Applicable child, the child may still be eligible for IV-E adoption assistance if the child meets the non-Applicable child criteria.

A non-Applicable child is a child who does not meet the Applicable Child criteria as detailed above. A non-Applicable child will be eligible for IV-E adoption assistance if the child meets the special needs criteria as defined above AND one of the following:

- 1) AFDC eligible at removal;
- 2) Meets all eligibility requirements for SSI prior to finalization of the adoption;
- 3) Is a child of a minor parent in IV-E foster care; **or**
- 4) Was eligible for IV-E Adoption Assistance in a prior adoption.

State Adoption Assistance:

If an Applicable or Nonapplicable-child is ineligible for IV-E adoption assistance, the child may be eligible for State funded monthly adoption assistance if the child is in the guardianship of a public or private agency or is going to be adopted in a consensual adoption pursuant to Family Law Article § 5-338, Annotated Code of Maryland, and has a special needs factor as set forth below. Note that eligibility for the State Adoption Assistance is based on the adoptive child's "special needs" and not the income of the adoptive parents. The LDSS must ensure that the appropriate documentation regarding the child's special needs is in the case record. The "special needs" factors are:

1.
 - a. The child is 6 to 17-years old;
 - b. The child has a physical or emotional disability or disease;
 - c. The child has an emotional disturbance;
 - d. The child is a member of a sibling group;
 - e. The child is recognized as being at high risk of physical or mental disease; **or**
 - f. The child's race or ethnicity is considered with any one of the above conditions or factors; **and**

2. The child cannot or should not be returned to the home of the parents, in accordance with criteria that the Title IV-E agency (DHS) has established; **and**
3. Reasonable, but unsuccessful, efforts have been made to place the child with adoptive parents without providing adoption assistance or Medical Assistance, unless such efforts are excused because of significant emotional ties between the child and their foster parent.

TYPES OF ASSISTANCE

Monetary payment:

A “monetary Assistance payment” is a **negotiated** monthly payment not to exceed 100% of the current foster care board rate a child is receiving at the time the adoption is finalized. The foster care board rate shall not be raised prior to establishing the assistance payment in order to provide the adoptive family a higher assistance payment. The adoption assistance payment shall not include the differential allowance provided by certain LDSSs. Parents who are adopting a child who is “medically fragile,” as defined in COMAR 07.02.12.02, or who are the child’s treatment foster care parents may be entitled to receive up to \$2000 a month as an adoption assistance payment. **SSA must approve any rate that is higher than the intermediate board rate, and the rate may be no more than the current foster care maintenance payment for IV-E.** The LDSS Assistant Director of Services shall submit a request for a treatment foster care rate to SSA at least 60 days prior to the adoption finalization date.

Medical Assistance:

If the child is receiving adoption assistance, the child is also eligible for Medical Assistance through the Maryland Medical Assistance Program (also referred to as Medicaid).

- If a child is at risk for developing a physical, mental or emotional disability but is otherwise healthy and the family agrees, the child may receive “Medical Assistance Only,” which is to be used to monitor the child’s status.
- If a child qualifies for an adoption assistance payment but the family chooses to only receive the Medical Assistance, the caseworker shall document the family’s decision. The local department should counsel the family about the supportive impact of the regular adoption assistance and document the family’s decision in the child’s foster care and Adoption Subsidy record. In this case, the LDSS would establish an adoption case with a \$0 subsidy amount. On the adoption subsidy agreement screen, the LDSS would drop down to “yes” in the “MA Only” box.
- When a child qualifies for an adoption assistance payment but the family chooses to only receive the Medical Assistance, the caseworker shall document that the subsidy agreement is “\$0.00” per month. This is needed in the event that the circumstances change, and assistance is requested in the future. A subsidy rate increase can be requested if there is an existing adoption assistance agreement in effect; however, a family cannot initiate a subsidy request after the adoption has been finalized.

If the adoptive parent chooses to enroll the adoptive child in the family’s private health

insurance, the adoptive family shall use the private health insurance as the primary health plan and Medical Assistance as the secondary health carrier.

Non-Recurring Adoption Expenses:

A Non-Recurring Adoption Expenses Reimbursement subsidy is a one-time-only, lump sum payment of up to \$2000 per child for expenses directly related to the finalization of an adoption. This reimbursement is matched 50% federal funds and 50% state general funds and is available for any child with special needs who is adopted through a public or private licensed agency.

Children adopted through an intercountry or independent adoption may apply through the LDSS for non-recurring adoption expenses if the child meets the definition of a child with special needs in accordance with Md. Code Ann., Fam. Law § 5-410.1(b), Annotated Code of Maryland; COMAR 07.02.12.05 D (4), .05E(3), and .08B(1) – (3).

Reimbursement for the non-recurring expenses is provided specifically for reasonable and necessary expenditures that are not reimbursable from another source, including:

1. Adoption fees;
2. Court costs and attorney fees;
3. Health and psychological examinations;
4. Transportation costs;
5. Food and lodging costs incurred during pre-placement visits; and
6. Supervision of the placement.

All children eligible to receive a non-recurring adoption expense reimbursement qualify under IV-E. All non-recurring adoption expense reimbursements must be approved by SSA prior to the adoption finalization. The LDSS Assistant Director of Services shall submit a request for non-recurring adoption expenses to SSA at least 60 days prior to the adoption finalization date. Expenses must be documented, and the LDSS will make payments directly to the adoptive family after finalization, not to the service providers; the adoptive family is responsible for paying any service provider. The LDSS shall document payment in full with the invoice or receipt and maintain this information in the Adoption Subsidy record.

ADOPTION ASSISTANCE NEGOTIATION

The LDSS and the adoptive family must negotiate the monthly adoption assistance the family will receive. Federal law requires that the amount of an assistance payment be determined through negotiation between the child welfare agency and the adoptive family. The LDSS cannot establish adoption assistance rates solely on the basis of the child's current foster care rate. The LDSS must ask the adoptive family questions to determine if the current foster care rate is warranted based on the child's documented current needs and behaviors. In determining an amount, the adoptive family and LDSS staff must take into consideration the circumstances of the adopting parents and the needs of the child being adopted. Once established, a federal adoption assistance payment cannot be adjusted without the agreement of the adoptive family (unless it meets termination or suspension criteria), so it is critical that the LDSS base the amount of the payment on the child's current documented quantifiable needs rather than on broad

generalizations or assumptions. The LDSS may renegotiate an adoption assistance agreement if the adoptive parents request an increase in payment due to a change in their or the child's circumstances that would have resulted in a higher foster care rate if the child had still been in foster care.

The LDSS must advise adoptive families to bring appropriate and specific documentation to the negotiation (see Forms Section), which may include but not be limited to:

- Receipts for expenses related to the child's current, ongoing expenses not covered through Medical Assistance or other sources;
- The child's medical records;
- The child's prescription history;
- The child's psychological evaluations;
- The child's educational records; and
- Documentation related to risk factors for physical or mental disability or disease.

The documentation must be from an appropriate health care or educational profession and be recent (less than 1 year old). The LDSS staff is expected to review the child's case record prior to negotiation and be familiar with the child's special needs. LDSS staff should bring the case record and the documentation of special needs to the negotiation.

In calculating the adoption assistance, the LDSS may not include expenses (mortgage, utilities, etc.) that the family would incur if the child were not part of their family. Adoption assistance payments are not intended to cover every expense the family may incur having a child as a member of the family, but rather to offset costs, such as bills for therapy or therapeutic activities, related to the special needs that make the child eligible for assistance. The LDSS must advise the family that plans to finalize the adoption cannot move forward until the amount of the adoption assistance is resolved, making it important that this negotiation occur in a timely manner.

CONCURRENT RECEIPT OF BENEFITS

The local department shall advise the family that, if the child receives SSI and adoption assistance at the same time, the SSI benefits will be reduced on a dollar-for-dollar basis by the amount of the IV-E adoption assistance. If a child receives other Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the amount of these benefits may be considered when negotiating the amount of the adoption assistance. The adoptive family is required to report their receipt of adoption assistance to the Social Security Administration while the adoption assistance agreement is in effect.

ADOPTION ASSISTANCE PAYMENTS

1. The adoption assistance payment shall be determined through negotiation and agreement between the local department and the adoptive parent.
2. The LDSS may consider an adoptive parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.
3. The amount and duration of the payment:
 - a. Shall be based on the needs of the child and the circumstances of the family;

- b. May be readjusted periodically, with the agreement of the adoptive parent(s) depending upon changes in circumstances; and
 - c. May not exceed the foster care payment that the family would have been received had the child remained in foster care.
4. The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000.
5. The local department may determine a \$0 payment is appropriate in certain circumstances, including:
 - a. The parent does not need adoption assistance to defray the cost of meeting the child's special needs when the adoption is finalized; or
 - b. The child is at risk of developing a physical or mental disease or disability but is not currently symptomatic.
6. The LDSS may not consider allowances paid to the adoptive parents in addition to foster care payments, such as those for transportation, day care, or camp, or differential amounts paid to resource parents in certain counties, in negotiating the adoption assistance rate.

TERMINATION AND DISSOLUTION OF ASSISTANCE

IV-E Adoption Assistance:

Suspension of IV-E Adoption Subsidy

If an adopted child enters foster care, the adoptive parents may voluntarily waive federal adoption assistance **in lieu of paying child support while the child is in care**. This waiver must be in writing and signed by the adoptive parents. The LDSS's decision to suspend or decrease an adoption assistance payment in lieu of child support payment must be made in conjunction with the local Child Support Administration Office (CSA). The LDSS must determine how to proceed in each case when a child for whom the LDSS is paying an adoption subsidy has entered care. A IV-E adoption subsidy can be suspended only if the adoption subsidy agreement permits suspension² and the circumstances are as follows:

- The LDSS cannot establish that the adoptive parent is providing any support to the child or youth (including individuals up to age 21 as per an approved Title IV-E plan) because the LDSS has not been able to contact the parent to make such a determination; or
- The LDSS cannot establish that the adoptive parent is legally responsible for the support of the child under age 18 because the agency has not been able to contact the parent to make a determination.

The LDSS must make efforts to locate the family and cannot reduce or suspend adoption assistance solely because the adoptive parents fail to reply to the agency's request for information, renewal, or recertification of the adoption assistance agreement.

² If an adoptive parent declines to include such a term in the existing agreement, the Title IV-E agency may not suspend adoption assistance payments under that agreement.

If the LDSS suspends adoption assistance under the circumstances described above, the child or youth remains Title IV-E eligible, and the Title IV-E adoption assistance agreement remains in effect while the payment is suspended. Although the LDSS may suspend a child's adoption assistance payment under the circumstances described above, the child's eligibility for, and receipt of, Medicaid may not be suspended while the adoption assistance agreement is in effect.

If the LDSS suspends a IV-E adoption subsidy, it must immediately send a registered letter to the adoptive family informing them that the payment will be suspended 30 days from the date of the letter. The letter shall include the grounds for suspension and the right to appeal. If the family appeals the decision, the LDSS may not continue to pay the assistance pending resolution of the appeal in the following situations:

- The family specifically requests that assistance not be continued or reinstated pending appeal;
- The eligibility or certification period for the assistance has expired;
- The assistance has been reduced or terminated due to a change in federal or State law or regulation and the appeal does not appear to concern misapplication of the change; or
- Continuation or reinstatement of the service at issue would threaten the health or safety of other individuals.

See COMAR 07.01.04.05B. If assistance is continued pending the appeal, the LDSS must advise the adoptive parent that the parent is responsible for repaying any assistance paid during the appeal process if the department's position is upheld.

If the LDSS suspends assistance due to the family's failure to return information required for renewal to the LDSS, the LDSS must reinstate the assistance on the date the adoptive family provides the required documentation. When a family has failed to provide information necessary for renewal, the LDSS must send an intended action letter to the family.

Termination:

A IV-E adoption assistance agreement may only be terminated upon the occurrence of one of the following circumstances:

1. The child reaches the age of 18 or 21 if conditions are met;
2. The State of Maryland determines that the adoptive parents are not legally responsible for the child;
3. The State of Maryland determines the adoptive parents are not providing financial support to the child; or
4. The adoptive parents or adoptive child have died.

When a child re-enters the foster care system after a finalized adoption, or if the LDSS is informed the child is not residing with the adoptive parents, the LDSS shall immediately notify the adoption assistance worker or adoption supervisor in the jurisdiction responsible for the issuance of the assistance payment. The jurisdiction that issues the assistance payment shall immediately review the adoption assistance record to identify the basis for the assistance.

In determining whether a family is providing a child with financial support, the LDSS may consider various forms of financial support including such things as payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs. In order to find that adoptive parents are no longer legally responsible for the child, the LDSS must determine that the parental rights of the adoptive parents have been terminated, that the adoption "dissolved;" or that the child has become an emancipated minor, marries, or enlists in the military.

If an adoptive parent dies during the time the child is still receiving a IV-E assistance payment, the IV-E payment must immediately be terminated. The new person designated to care for the child may be eligible to receive state funded assistance payments, but the child is not eligible for IV-E Adoption Assistance unless a new adoption occurs.

Prior to terminating an adoption assistance payment, the LDSS must send a registered letter to the adoptive family stating the local department's intent to terminate the assistance in 30 calendar days. The letter shall also include the grounds for termination and the right to appeal.

ADOPTION FOLLOWING RELATIVE GUARDIANSHIP ASSISTANCE (GAP)

If a child is receiving IV-E GAP and the GAP subsidy dissolves or the relative guardian would like to pursue adoption, adoption assistance may be paid on behalf of the child if the child is subsequently adopted. Specifically, this applies to those Restrictive Foster Care cases in which a relative or guardian was awarded a GAP subsidy, the guardianship dissolved, and the child was later placed for adoption with the relative guardian or another individual or the guardian pursued adoption (if the child was in the care of a public or licensed private child placing agency immediately prior to the title IV-E guardianship, the child is considered to still be in the care of the agency for purposes of adoption assistance eligibility).

- If the Custody & Guardianship has dissolved, the caseworker must send an Intended Action letter to the relative guardian informing them that the GAP payment will end 30 days following the notice of Intended Action.
- In all other circumstances, the caseworker must complete all actions applicable to assessing the youth for an adoption assistance subsidy. In assessing the alternative permanency plan, the GAP subsidy would not be considered in determining the youth's eligibility. The Title IV-E eligibility unit will determine if the youth is an Applicable or non-Applicable child by completing the Applicable child assessment which is the determining factor for this process.

STATE ADOPTION ASSISTANCE

Suspension:

State Adoption assistance payments **shall be** suspended for the following two reasons: (1) the child who was adopted re-enters out of home placement effective the date of removal; or (2) the adoptive family fails to return the required information for the adoption subsidy renewal to the LDSS. In addition, when a child re-enters the foster care system after an adoption finalization, or if the LDSS is informed the child is not residing with the adoptive parents, the LDSS shall

immediately notify the adoption assistance worker or adoption supervisor in the jurisdiction responsible for the issuance of the assistance payment. The jurisdiction that issues the assistance payment shall immediately review the adoption assistance record to identify the basis for the assistance.

Notice: At least 30 calendar days in advance of the planned suspension of the State Funded adoption assistance payments, or as soon as possible for a suspension after a child re-enters out of home placement, the local department must send the adoptive parent a notice that includes the intent to suspend the adoption assistance, statement of the specific regulations cited as grounds for suspension, and statement describing the adoptive family's right to appeal the decision to the local department. If the payment is suspended due to the family's failure to return the required information for renewal to the local department, the LDSS must reinstate the payment on the date the adoptive family provides the required documentation, and send a separate intended action letter to the family.

Termination:

State-funded adoption assistance may be terminated upon the occurrence of any of the following conditions:

1. A child re-enters out-of-home placement;
2. A legally responsible adoptive parent no longer provides the child's primary financial support;
3. An adoptive parent's rights have been terminated;
4. An adoptive parent dies and there is no suitable subsequent caregiver;
5. The child reaches the age of 21; or
6. The child's has turned 18 and does not meet the continued eligibility conditions (i.e., the child does not have a mental or physical disability that warrants the continuation of the adoption assistance beyond the child's 18th birthday; 1) is not participating in secondary education or a program leading to an equivalent credential; 2) is not participating in a post- secondary or vocational educational program; 3) is not participating in a program or activity designed to promote or remove barriers to employment; 4) is not employed at least 80 hours a month; **or** 5) or is incapable of doing any of the above activities due to a medical condition supported by regularly updated information in the case plan of the child.

Notice: Prior to terminating an adoption assistance payment the LDSS must send a registered letter to the adoptive family stating the LDSS's intent to terminate the assistance in 30 calendar days. The letter shall also include the grounds for termination and the right to appeal.

ANNUAL REDETERMINATION (IV-E and State Subsidy)

The LDSS annual renewal packet must be mailed to the adoptive family 90 days prior to the renewal date. All applications for continuing the adoption assistance must include information to determine the following:

- The parent is currently legally responsible for the child;
- The parent currently provides primary financial support for the child;
- The child currently attends or is enrolled in school (Third party documentation is required which includes: current report card, authorization letter for homeschooling, or enrollment verification from the school system);
- Non-school age children are up to date on immunizations as documented in an immunization record;

For State subsidy redetermination, if the child is 18 years of age or older or will reach the age of 18 within the next 12 months the adoptive child may continue to receive State funded adoption assistance until their 21st birthday provided that, subsequent to the child's 18th birthday, the LDSS determines that the child has a mental or physical disability that warrants the continuation of the adoption assistance beyond the child's 18th birthday OR in any of the following situations:

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

IV-E subsidy redetermination for child 18 years of age or older: The LDSS may extend the age that a child may receive IV-E adoption assistance payments and assistance up to age 21, if it determines that:

- The child has a mental or physical disability that warrants the continuation of the adoption assistance beyond the child's 18th birthday,
- The assistance agreement was entered into after the child turned 16 years old and, as of the child's 18th birthday, the child meets the following criteria:
 - The child is completing secondary school or equivalent;
 - The child is enrolled in post-secondary or vocational school;
 - The child is participating in a program or activity that promotes or removes barriers to employment;
 - The child is employed 80 hours a month; or
 - The child is determined incapable of any of the above due to documented medical conditions.

Local departments are required to receive verification of school attendance/enrollment for all children receiving federal or state adoption assistance. At the time of the annual redetermination, the LDSS will inform families of the new policy requiring the school verification when sending out the application to continue the assistance. If the family does not provide the required verification for school attendance/enrollment, the LDSS must follow up with the family to ensure that the child is receiving appropriate services.

If, by 60 calendar days prior to the time of redetermination (the date the annual agreement

expires), the LDSS has not received the annual redetermination form or the required documentation, the LDSS may have a permissible basis for suspending or terminating the IV-E assistance payment (see section IV-E Adoption Assistance suspension on pages 9 - 10 of this policy). If so, the LDSS shall send the adoptive families a registered letter informing them the assistance payment will be suspended or terminated within 30 calendar days if the redetermination form and documentation are not returned to the LDSS. The letter shall include the specific regulation and/or statutes providing the basis for suspension or termination and advise the adoptive family of their right to appeal the agency's decision. If the family files an appeal, the case must remain open until all appeals have concluded, however payment will not be issued once the annual agreement has expired. If the family has not provided the annual redetermination form and/or the required documentation, or filed an appeal, the LDSS may terminate (close) the case 30 days after the annual redetermination date.

NOTE: The local department must ensure that adoption assistance workers are aware of the eligibility criteria and apply the criteria consistently. The local director (or designee) must sign off on each adoption assistance redetermination to certify that the assistance payment is appropriate to continue and that all requirements have been met.

REQUEST FOR CHANGES OF ASSISTANCE PAYMENT

State law requires that all adoption assistance cases be reviewed on an annual basis. A request for a change of the amount of the assistance payment can be requested by the LDSS or family to the designated SSA Permanency staff by way of the LDSS at any time during the year (Attachment A). The SSA Policy Analyst and SSA Permanency Supervisor will review the request for approval. The amount of a IV-E payment cannot be changed without the consent of the family. **SSA approval is required for all increases.**

The LDSS and the family must agree on rate changes due to changes in circumstances that would justify an adjustment in the amount of adoption assistance such as the child's re-entry into out of home placement or documented changes in the child's particular special needs or family circumstances since the last negotiation. The LDSS must ask adoptive parents to submit documentation to justify a request for a rate change (see Forms section below). The LDSS must also submit the Adoption Assistance Justification Form (Attachment B).

The renegotiated amount may not exceed the foster care payment that would have been paid during the period if the child had been in a foster family home. The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000. There is no automatic increase for assistance due to a child's age or when the foster care board rate increases unless specifically included in legislation that increases the foster care board rate. **Social Services Administration (SSA) approval is required for all increases; the local department of social services can recommend a rate increase, but only SSA can approve the increase.** The adoptive family must provide a letter to the LDSS indicating the specific changes that would justify a payment adjustment, the amount of the adjustment, and the type of benefit they believe is needed. The parents must provide documentation to support their request, including current school reports, psychological evaluations, medical reports, costs and descriptions of services, and any other documentation that

supports the requested adjustment.

If the LDSS reviews the documentation and believes an increase may be appropriate, it should submit the request to the designated SSA Adoption Permanency staff stating the current assistance amount and the requested increase. The LDSS must justify in the memo the need for the increase and attach documentation to support the request.

Upon receipt of the memo and supporting documentation, SSA will review the request to determine whether an increase is appropriate. Once SSA has determined that the request is appropriate, the Adoption Assistance Committee will review the packet. The Adoption Assistance Committee comprises SSA staff, LDSS staff, and an attorney from the Office of the Attorney General. The Committee will meet as needed to review all requests and to determine whether to approve the request. SSA will provide the LDSS staff with a written decision based on the Committee's decision.

POST ADOPTION ASSISTANCE

Eligibility Process:

If a child develops a special need subsequent to finalization that was present but not known at the time of the adoption, the child may be eligible to receive post-adoption assistance. A post-adoption assistance is state-funded, and the adoptive child must meet the following eligibility:

- The child was in the guardianship of a Maryland public or private agency at the time of the adoption; and
- The child's condition would have made the child eligible for adoption assistance had the condition been known prior to the finalization of the adoption.

SSA must approve any post-adoption assistance payment. The LDSS may recommend approval or denial of the payment but SSA will make the decision. The LDSS Assistant Director for Services must submit the request to SSA.

If the child is eligible for a post-adoption subsidy, the child is also eligible for Medical Assistance through the Maryland Medical Assistance Program (also referred to as Medicaid) and a negotiated monthly monetary payment (see section above titled Types of Assistance, Monetary Payment and Medical Assistance on page 6 and section titled Adoption Assistance Negotiation and documentation necessary on pages 7-8.)

Termination and Dissolution of Assistance, Annual Redeterminations, and Request for Increases of Assistance Payment shall be handled in the same manner as State Adoption Assistance Cases.

Appeals Process:

Each individual who applies for or is receiving adoption assistance, has the right to appeal the denial of eligibility, reduction, suspension, or termination of the adoption assistance payment. A request for a Fair Hearing must be made within 90 calendar days of the agency mailing or delivering timely and adequate notice, whichever is earlier. The LDSS shall provide specific

information to their customers about the procedures to follow when making an appeal. If an individual appeals a decision made by SSA, SSA will respond to the appeal and represent the agency in the appeals process.

INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE (ICAMA)

ICAMA is an agreement between member States that governs the interstate delivery of medical services and adoption assistance payments for adopted special needs children. ICAMA was created to protect special needs children who move across state lines to ensure they continue to receive appropriate medical assistance and subsidies. ICAMA provides for uniformity and consistency of policy and procedures used in administering Title IV-E adoption assistance or when a Maryland adoptive family moves to another state after finalization of the adoption.

Through the Compact, states may also extend these protections to children who are eligible for State funded adoption assistance. When a caseworker is informed that an adoptive family is moving to another state, the caseworker **must** expedite an ICAMA packet to prevent an interruption in medical coverage. The ICAMA packet includes an ICAMA form 6.01 and a copy of the original Adoption Assistance Agreement. Operation of the Compact is the responsibility of the designated Compact Administrator in each State. This person coordinates with in-state and out-of-state officials to: a) promote continuity of care; b) remove barriers that may create a gap in medical coverage for special needs adopted children; c) process ICAMA forms; and, d) serve as an information resource. The Compact is essential because every state's Medical Assistance Program is different. Without the Compact, systemic differences create barriers to children and families receiving medical benefits in interstate situations.

Interjurisdictional Adoptions:

No State or Tribal agency will:

1. Deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or
2. Fail to grant an opportunity for a fair hearing, as described in the Social Security Act section 471(a)(12), to an individual whose allegation of a violation of part (1) of this subsection is denied by the State/Tribal agency or not acted upon by the State/Tribal agency with reasonable promptness. (This means that the individual has the right to a fair hearing if they are accusing the State of violating their rights to the adherence of #1).

RELATED INFORMATION

LDSS Oversight:

The LDSS is responsible for ensuring compliance and monitoring of the adoption assistance process to include:

Adoptions Suspensions:

- Monthly monitoring of both IV-E (federal) and state adoption assistance payments to

- ensure they are up to date;
- Ensuring that the LDSS has suspended State adoption subsidies when children enter foster care.
- Ensuring that the LDSS has sent intended action letters to the adoptive family advising them of the upcoming suspension within 30 days of receipt of the notice;
- Ensuring that the LDSS has notified families when they do not respond to recertifications; and
- Ensuring that the LDSS has sent written notification when a subsidy is in jeopardy of being suspended.

SSA Oversight:

The SSA Permanency Unit monitors adherence to the adoption assistance policy through the use of Standard Operating Procedures.

- SSA staff will monitor compliance on a regular basis and notify the local department of any concerns;
- SSA will provide technical assistance to the LDSS regarding challenges/barriers in adoption assistance payments; and.
- SSA will ensure the Adoption Assistance Committee remains active to ensure timely processing of adoption assistance subsidies.

Alignment with Practice Model & Desired Outcome:

The Adoption Assistance Program supports the goals of the Integrated Practice Model to reduce the need for foster care placements and for timely and lasting permanency through adoption. It values collaboration with the adoptive family and empowers them to provide for the needs of their growing family. Adoption assistance is intended to help defray a portion of the costs incurred by parents adopting children with special needs.

Forms:

[CJAMS Tip Sheets](#)

[Intended Action Letter](#)

[Appeals Form](#)

The following forms can be found on the [SSA Policies Google drive](#):

Request for Initial in Adoption Assistance
Adoption Assistance Justification Form
Adoption State Agreement for Special Needs
Agreement for One-Time-Only Assistance
Redetermination for State Adoption Agreement
Redetermination for Title IV-E Adoption Assistance
Title IV-E Adoption Assistance Agreement