

Child Welfare Policy Manual

Questions & Answers

8.2B.6 TITLE IV-E, Adoption Assistance Program, International Adoptions

1. Question: Is a child who is the subject of an international adoption eligible for title IV-E adoption assistance if the child is not an "applicable child"?

Answer: The Federal adoption assistance program under title IV-E was intended to provide permanency for children with special needs in public foster care by assisting title IV-E agencies in providing ongoing financial and medical assistance to the families who adopt them. As a result, the statutory requirements for title IV-E adoption assistance eligibility are geared to needy children in public child welfare systems and are difficult, if not impossible, to apply to children who are adopted from abroad. Therefore, although the statute does not categorically exclude these children from participation in the title IV-E adoption assistance program, it is highly improbable that children who are adopted abroad by U.S. citizens, or are brought into the U.S. from another country for the purpose of adoption, will meet the criteria in section 473 of the Social Security Act (the Act) for title IV-E adoption assistance eligibility.

In addition to meeting the three-part criteria for special needs in section 473(c) of the Act, to be eligible for title IV-E adoption assistance, a child also must be eligible in one of the following manners: 1) Eligible for Aid to Families with Dependent Children (AFDC) at the time of the voluntary placement agreement or court removal petition; 2) Eligible for Supplemental Security Income; or, 3) foster care costs of the child are being covered by title IV-E foster care maintenance payments being made for his or her minor parent in foster care. Children who are adopted abroad, or are brought into the U.S. from other countries for the purpose of adoption, are not: 1) AFDC-eligible in their own homes (AFDC was a domestic program and therefore not available on behalf of children in their own homes in another country); 2) SSI-eligible (SSI cannot be established since a child who is adopted from another country cannot meet either the Social Security Administration's alien eligibility requirement or its "presence in the U.S." rule (requiring that an individual who has been outside the U.S. for 30 consecutive days must be present in the U.S. for 30 consecutive days to be eligible for SSI). The Child Citizenship Act of 2000, Public Law 106-395, impacts neither the SSI eligibility for children who are adopted from abroad nor the title IV-E adoption assistance eligibility for these children); or 3) eligible as a result of their minor parent's receipt of title IV-E foster care maintenance payments.

The above cited reasons, as well as the criteria that the child must meet in order to determine whether a child meets the definition of special needs make it highly improbable, if not virtually impossible, that a child adopted through an intercountry adoption will be eligible for title IV-E adoption assistance. Although it is highly improbable that children adopted through an intercountry adoption will meet the title IV-E adoption assistance requirements, title IV-E agencies cannot in policy categorically exclude these children from consideration since the statute does not authorize such an exclusion. In the case of reimbursement of nonrecurring expenses of adoption, the title IV-E agency need only to determine that the child is a child with special needs, consistent with section 473(c) of the Act. Accordingly, if a child who is adopted from abroad meets the three criteria for special needs, the title IV-E agency must pay for the nonrecurring adoption expenses for these children, consistent with 45 CFR 1356.41, if requested by the parents prior to the finalization of the adoption. *Note: This Q/A was previously deleted on 10/25/2017 because at the time, the phase-in for the applicable child in section 473(e)(1)(B) of the Act was complete. P.L. 115-123 amended section 473(e)(1)(B) to extend the applicable child phase-in to FY 2025, effective 1/1/2018.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006; (03/03/2020)
- **Legal and Related References:** Social Security Act - section 473(a) and (c) and 479B; The Deficit Reduction Act of 2005; 45 CFR 1356.41