

Child Welfare Policy Manual

Questions & Answers

8.2D TITLE IV-E, Adoption Assistance Program, Payments

1. Question: May a title IV-E agency make title IV-E adoption assistance payments directly to a youth age 18 or older?

Answer: No. A title IV-E agency must make the payments to the youth's adoptive parent(s). Section 473(a)(1)(B)(ii) of the Act specifies that the title IV-E agency may make adoption assistance payments to parents who adopt a child with special needs, either directly or through another public or nonprofit private agency.

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act § section 473(a)(1)(B)(ii)

2. Question: Must a title IV-E agency discontinue title IV-E adoption assistance payments provided per 475(8)(B) of the Act for a youth who is age 18 or older if the title IV-E agency determines that the youth is no longer meeting the education or employment criteria or is no longer incapable of meeting any of these criteria due to a medical condition, as elected by the title IV-E agency?

Answer: Yes. A title IV-E agency must ensure that a youth receiving a title IV-E adoption assistance payment under section 475(8)(B) of the Act meets the education and employment criteria or is incapable of meeting any of these criteria due to a medical condition, as elected by the title IV-E agency. Once a title IV-E agency determines that a youth no longer meets the criteria, the agency must discontinue title IV-E adoption assistance payments for the youth. However, if the youth meets the criteria at a later time, the title IV-E agency may resume payments to the youth.

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act § section 475(8)(B); ACYF-CB-PI-10-11

3. Question: Under what circumstances may a title IV-E agency suspend adoption assistance payments?

Answer: Pursuant to long-standing policy, title IV-E agencies were prohibited from suspending adoption assistance payments because a suspension was the equivalent of terminating adoption assistance payments. See ACYF-CB-PIQ-98-02, as incorporated into §8.2 of the Child Welfare Policy Manual (CWPM). Title IV-E agencies advised us that our

adoption assistance suspension policy did not allow them the latitude to act when the agency was unsure or doubted that the parent was continuing to provide support to the child/youth. Consequently, we issued a Request for Comment in the Federal Register, 80 FR 17058 (March 31, 2015) asking agencies and other stakeholders to comment on our adoption assistance suspension policy. Informed by the comments we received, we have revised our adoption assistance suspension policy to allow title IV-E agencies to suspend adoption assistance payments in accordance with the guidance provided below.

A title IV-E agency may suspend adoption assistance payments if the agency cannot establish that the adoptive parent is providing any support to the child/youth (including individuals up to age 21 as per an approved title IV-E plan) because the agency has not been able to establish contact with the parent to make such a determination. “Any support” includes various forms of financial support, as determined by the title IV-E agency. Payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs are acceptable forms of financial support. See §473(a)(4)(A)(iii) of the Social Security Act (the Act); CWPM, §8.2D.5, Question and Answer #2.

Similarly, a title IV-E agency may suspend adoption assistance payments if the agency 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 establish contact with the parent to make a determination. A parent is considered no longer legally responsible for the support of a child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military. See §473(a)(4)(A)(ii) of the Act; the Child Welfare Policy Manual at §8.2D.5, Question and Answer #2.

Note that a title IV-E agency 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.

A title IV-E agency only may suspend adoption assistance payments in accordance with the fair hearing requirements at 45 C.F.R. §205.10. Before suspending a payment, the title IV-E agency must ensure that notice to the adoptive parents is both timely and adequate, as described at 45 C.F.R. § 205.10(a)(4). As such, the title IV-E agency must mail notice of intent to suspend the adoption assistance payments at least ten days before the agency plans to suspend the payments. It also must describe that the agency intends to suspend payments, the reasons for the intended suspension and the title IV-E basis as outlined above for the intended suspension. Finally, the agency must describe the adoptive parent’s right to request a fair hearing and the circumstances under which assistance is continued if a hearing is requested.

In order to be able to suspend adoption assistance payments in accordance with the guidance above, the title IV-E agency must first amend its title IV-E plan and have the Children’s Bureau approve the change. Note also that each new adoption assistance

agreement must include the circumstances under which the title IV-E agency may suspend adoption assistance payments. Similarly, the title IV-E agency may try to re-negotiate existing adoption assistance agreements with the adoptive parent to include the circumstances under which the title IV-E agency may suspend payments; however, the terms of an existing adoption assistance agreement only may be changed with the concurrence of the adoptive parent. 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 title IV-E agency suspends adoption assistance as described above, the child/youth remains title IV-E eligible, and the title IV-E adoption assistance agreement remains in effect while the payment is suspended.

Although an agency 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. See §473(b) of the Social Security Act. The title IV-E agency also may claim any title IV-E adoption assistance administrative costs on behalf of a child whose title IV-E adoption assistance is suspended in accordance with its approved cost allocation plan.

- **Source/Date:** 02/14/2018
- **Legal and Related References:** Social Security Act, section 473(a)(4)(A) and (B); 45 CFR 205.10