

Child Welfare Policy Manual

Questions & Answers

8.2D.5 TITLE IV-E, Adoption Assistance Program, Payments, Termination

1. Question: Under what circumstances may the title IV-E agency terminate an adoption assistance agreement?

Answer: Title IV-E adoption assistance is available on behalf of a child if s/he meets all of the eligibility criteria and the title IV-E agency enters into an adoption assistance agreement with the prospective adoptive parent(s) prior to the finalization of the adoption. The agreement must be signed by all parties to the agreement (namely, the adoptive parents and the title IV-E agency representative) in order to meet the requirements for an adoption assistance agreement.

Once an adoption assistance agreement is signed and in effect, it can be terminated under the following circumstances only. Namely, (1) the child has attained the age of 18 or such greater age that the State or Tribe may elect under section 475(8)(B)(iii) of the Act; (2) the child has attained age of 21 if the title IV-E agency has determined that the child has a mental or physical disability which would warrant continuation of assistance); (3) the title IV-E agency determines that the adoptive parents are no longer legally responsible for support of the child who has not attained 18 years of age; or (4) the title IV-E agency determines that the adoptive parents are no longer providing any support to the child.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - sections 473(a)(4) and 475(8)(B)(iii); 45 CFR 1356.40(b)

2. Question: Section 473(a)(4)(A) of the Social Security Act states that no adoption assistance payment can be made to parents if the title IV-E agency determines that the parents are no longer legally responsible for the support of a child who has not attained 18 years of age, or if the title IV-E agency determines that a child is no longer receiving any support from the parents. When is a parent considered to be "no longer legally responsible for support" or not providing "any support" for the child?

Answer: 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.

"Any support" includes various forms of financial support. The title IV-E agency may determine that 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. Consequently, the title IV-E agency may continue the adoption assistance subsidy, if it determines that the parent is, in fact, providing some form of financial support to the child.

- **Source/Date:** ACYF-CB-PIQ-98-02 (9/03/98)
- **Legal and Related References:** Social Security Act - section 473(a)(4)(A)

3. Question: Can a State agency automatically suspend the adoption assistance payment for the duration of an adopted child's placement in foster care? The State agency would reinstate the payment upon the child's return home.

(Deleted 02/21/2018)

4. Question: Is it permissible for a title IV-E agency to include a statement in the title IV-E adoption assistance agreement to the effect that "The Department's obligation to provide for Federally funded adoption assistance payments and/or services is subject to the appropriation of funds"?

Answer: No. Although we understand that the title IV-E agency may experience difficulties in its ability to pay subsidies due to the State or Tribe's budget, such difficulties do not relieve or alter the title IV-E agency's obligation under title IV-E to act in accordance with executed adoption assistance agreements. Accordingly, any statement that undermines the title IV-E agency's obligation to honor the terms of the title IV-E adoption assistance agreement is not consistent with Federal requirements in sections 473(a)(1)(B)(ii) and 473(a)(3) of the Social Security Act. Once an agreement is signed, the title IV-E agency must obtain the concurrence of the adoptive parent if it wishes to make any changes in the payment amount with one exception. That exception is when there is an across-the-board reduction or increase in the foster care maintenance payment rate. In that circumstance, the title IV-E agency may adjust the adoption assistance payment without the adoptive parent's concurrence.

- **Source/Date:** 08/05/08; (03/03/2020)
- **Legal and Related References:** Social Security Act - sections 473(a)(1)(B)(ii), (a)(3), and 479B; CWPM 8.2D4, Q/A #2)