Child Welfare Policy Manual

Questions & Answers

8.3A TITLE IV-E, Foster Care Maintenance Payments Program, Eligibility

1. Question: A judicial determination is made that a child should be removed from his home, and the child is placed in foster care with title IV-E foster care payments being paid on his behalf. Casework services are provided toward a goal of reunification. At a later date, the court rules that the child should return home; however, the court retains jurisdiction and continues the county department's responsibility to supervise the home and to provide services necessary to further strengthen the family unit. Subsequent circumstances cause the court to determine that the child must return to foster care. In considering initial eligibility on the title IV-E foster care reapplication, which judicial determination removing the child from his home should be used - the first or the second?

Answer: When a child is removed from his home and placed in foster care, there must be a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child and that reasonable efforts have been made to prevent or eliminate the need for removal. Such a determination is necessary at any time (or every time) that a child is removed from his home, because each situation involves different circumstances and reasons for placement. Unless the child was visiting his home on a trial basis, a return to foster care would require a new determination of eligibility based on the circumstances at that time. In the situation described, the judicial determination and eligibility factors current at the time of the most recent removal would be used to determine eligibility for title IV-E foster care.

- **Source/Date:** ACYF-CB-PIQ-86-03 (5/9/86)
- **Legal and Related References:** Social Security Act - section 472

2. Question: The statute refers to a child being eligible for AFDC "in or for such month" in sections 472(a)(3)(A)(i) and (ii) of the Social Security Act (the Act). Please clarify the month in which the child must have met the AFDC eligibility criteria?

Answer: The child must have been eligible for AFDC in either the month of the voluntary placement agreement or the removal petition. This is true whether the child was living with a specified relative at the time of the removal petition or voluntary placement agreement (section 472(a)(3)(A)(i) of the Act), or whether the child was living with an interim relative caretaker within the six months prior to the removal petition or voluntary placement agreement (section 472(a)(3)(A)(ii)(II) of the Act). In the latter situation, although the child is

not in the home of the specified relative from whom the child was removed, the title IV-E agency must determine whether the child would have met the AFDC criteria had the child remained in the specified relative's home.

- **Source/Date:** 7/7/2006; 10/23/2019
- **Legal and Related References:** Social Security Act - section 472(a)(3)(A)(i) and (ii) and 479B; 45 CFR 1356.21(l)

3. Question: In determining a child's Aid to Families with Dependent Children (AFDC) eligibility, should the title IV-E agency examine the household circumstances when the child was removed from home, or should the title IV-E agency examine the whole month in which the removal petition was initiated or the voluntary placement agreement was signed?

Answer: The title IV-E agency must determine a child's AFDC eligibility in or for the month in which the court proceedings were initiated or the voluntary placement agreement was signed. State title IV-E agencies must use the state's title IV-A plan (as it was in effect on July 16, 1996) to determine if a child would have been eligible for AFDC. Tribal title IV-E agencies must use the title IV-A state plan (as it was in effect on July 16, 1996) in the state in which the child resides when the child was removed from the home to determine if a child would have been eligible for AFDC.

- **Source/Date:** December 2, 2016; October 23, 2019
- **Legal and Related References:** Social Security Act - section 472(a)(3) and 479B

4. Question: May a youth age 18 or older who is married or enlisted in the military be eligible for title IV-E foster care?

Answer: Yes. There is nothing in title IV-E that prohibits a title IV-E agency from providing title IV-E foster care to an otherwise eligible youth if the youth is married or enlisted in the military (including if the youth is in the military reserves or ROTC).

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

5. Question: May a title IV-E agency require a youth age 18 or older to have been in foster care in the State or Tribe prior to turning age 18 in order to receive title IV-E foster care at age 18 or older under section 475(8)(B)?

Answer: Yes, the title IV-E agency may provide title IV-E foster care only to youth who were in foster care in the State or Tribe prior to turning age 18. However, there is no federal requirement for a youth to have been in foster care prior to turning age 18 to receive title IV-E foster care at age 18 or older under section 475(8)(B).

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