

Child Welfare Policy Manual

Questions & Answers

8.3A.1 TITLE IV-E, Foster Care Maintenance Payments Program, Eligibility, Adjudicated delinquents

1. Question: Are adjudicated delinquents eligible for title IV-E foster care maintenance payments?

Answer: The question of eligibility for Federal reimbursement in the case of adjudicated delinquents rests on two factors: (1) eligibility of the child, and (2) the type of facility in which the child is placed. Any child for whom title IV-E foster care maintenance payments are claimed must meet the eligibility criteria described in section 472 (a) of the Social Security Act (the Act). These general requirements are: (a) The child must be a "dependent child" as defined in section 406 (a) or 407 of the Act (as in effect on July 16, 1996) and the applicable regulation, 45 CFR 233.90 (c)(1), but for his or her removal from the home of a specified relative; (b) That the child was eligible for Aid to Families with Dependent Children (AFDC) in the month described in section 472 (a)(3)(A)(i) of the Act and consistent with the contingencies explained in section 472 (a)(3)(A)(ii) of the Act; (c) The child must be removed from the home of a relative pursuant to a voluntary placement agreement or as the result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child and that reasonable efforts were made prior to placement to prevent the need for removal of the child from his home; and (d) The child's placement and care must be the responsibility of the title IV-E agency or another public agency with whom the title IV-E agency has a currently effective agreement.

If the child meets the title IV-E eligibility requirements, FFP may be claimed for foster care costs in licensed or approved facilities as described in sections 472 (b) and (c) of the Act. Such facilities, however, may not include "detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent."

- **Source/Date:** ACYF-CB-PIQ-82-10 (8/11/82); ACYF-CB-PIQ-88-03 (4/11/88); 10/23/2019
- **Legal and Related References:** Social Security Act - sections 406 (a) and 407 (as in effect on July 16, 1996) 472 and 479B; 45 CFR 1355.20 and 233.90 (c)(1)

2. Question: If a temporary detention order states that the child is to be detained until sentencing because there is reason to believe he would run away, would this satisfy the requirement for a determination regarding "contrary to the welfare?"

Answer: No. This language could not be construed to mean that to continue in the home would be "contrary to the (child's) welfare." It is important to remember that the judicial determinations required for title IV-E eligibility were intended to ensure that children were not removed from their homes unnecessarily. In juvenile justice procedures, where children are removed for correctional purposes, the courts must determine that continuation in the home would be contrary to the child's welfare if title IV-E eligibility is to be established.

- **Source/Date:** ACYF-CB-PIQ-91-03 (4/3/91)
- **Legal and Related References:** Social Security Act - sections 472 (a)(2)(A)(ii)

3. Question: Court orders that sentence a child to a juvenile detention facility often include language which differs from that in a dependency order resulting in a foster care placement. Does language in a detention order indicating that the child is a "threat to himself or the community" meet the requirement in section 472 of the Social Security Act regarding "contrary to the welfare?"

Answer: A court order indicating that the child is a threat to himself satisfies the requirement of a determination that remaining in the home would be contrary to the child's welfare. However, if the court order indicates only that the child is a threat to the community, such language would not satisfy the requirement for a determination that continuation in the home would be contrary to the child's welfare.

- **Source/Date:** ACYF-CB-PIQ-91-03 (4/3/91)
- **Legal and Related References:** Social Security Act - sections 472 (a)(2)(A)(ii)

4. Question: A youth may be declared a ward of the court and be ordered placed in much the same manner as delinquents, yet, he is not a delinquent in that no crime has been committed. Does the term "juvenile delinquent" refer to status offenders and, if not, are status offender wards eligible for Federal funds?

Answer: It is the Department's position that "juvenile delinquent" refers only to those children who have been adjudicated as having committed a delinquent act(s) and does not include status offenders. This interpretation is clearly supported by the legislative history.

- **Source/Date:** ACYF-CB-PIQ-82-10 (8/11/82)
- **Legal and Related References:** Social Security Act - section 470