

Child Welfare Policy Manual

Questions & Answers

8.3A.3 TITLE IV-E, Foster Care Maintenance Payments Program, Eligibility, Biological parents

1. Question: Since adoption assistance is not available for children adopted by biological parents, would Federal financial participation (FFP) under title IV-E foster care be available in those homes if the parents do not adopt and the agency retains guardianship and responsibility for placement and care?

Answer: No. Title IV-E foster care maintenance payments are available for AFDC-eligible children who have been removed from their own homes and placed in a foster family home or child care institution. By definition, foster care is provided by someone other than a biological parent.

While a termination of parental rights severs the legal ties between the parent and the child, it does not change the biological relationship with the child. A child living with his parents would not be considered to be living in a foster home and, thus, would not be eligible for title IV-E foster care maintenance payments.

- **Source/Date:** ACYF-CB-PIQ-89-04 (8/8/89)
- **Legal and Related References:** Social Security Act - sections 472 (a)(2)(A) and (C), 472 (b)

2. Question: When a child is removed from the custodial parent and placed by the title IV-E agency for a temporary period of time with the non-custodial parent under the placement and care responsibility of the title IV-E agency, and then the title IV-E agency subsequently moves the child to a licensed foster family home, must the title IV-E agency obtain another removal order in order to claim title IV-E?

Answer: No. The child is not eligible for title IV-E while placed with the non-custodial parent (see Child Welfare Policy Manual Section 8.3A.3 Q/A #1). However, the child's placement with the title IV-E agency non-custodial parent has no bearing on whether the title IV-E agency may claim title IV-E reimbursement for the child when s/he is later placed in a licensed foster family home, so long as the title IV-E agency maintains placement and care responsibility and the child otherwise meets the criteria in sections 472(a)(2)(A) and (B) and 472(a)(3) of the Act. Presuming the title IV-E agency has already obtained a contrary to the

welfare finding in relation to the custodial parent, it remains valid for title IV-E purposes unless the title IV-E agency's placement and care responsibility ends and the child is removed again pursuant to a court order or voluntary placement agreement.

- **Source/Date:** 12/6/2007; 10/23/2019
- **Legal and Related References:** Social Security Act - sections 472(a)(2)(A) and (B), and 479B; 45 CFR 1355.20

3. Question: May a title IV-E agency consider a youth age 18 or older who is residing in the same home as his/her parent or guardian to be in an allowable title IV-E supervised independent living setting if paired with title IV-E agency supervision?

Answer: Yes. A title IV-E agency may develop a range of supervised independent living settings as long as those settings can be reasonably interpreted as consistent with the law at section 472(c)(2). It is within the title IV-E agency's discretion to determine that residing with a parent or guardian is an allowable supervised independent setting provided that the title IV-E agency is providing supervision. In this arrangement, the parent or guardian is not the foster care provider for the youth, nor has the agency returned the youth home to live under the care of his/her parent or legal guardian.

For example, the title IV-E agency may consider a youth who normally resides in a dorm during college who then lives in a room in the home of his/her parent during breaks from college, or a youth who takes classes and rents a basement room from his/her guardian to be in allowable supervised independent living settings when paired with agency supervision. Ultimately, it is up to the title IV-E agency to consider the circumstances of the youth and the supervised independent living arrangement to determine whether it would be an appropriate and allowable independent living setting.

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act - section 472(c)(2); ACYF-CB-PI-10-11