

Child Welfare Policy Manual

Questions & Answers

8.3A.9 TITLE IV-E, Foster Care Maintenance Payments Program, Reasonable efforts

1. Question: What is the statutory basis for treating a judicial determination that the title IV-E agency made reasonable efforts to prevent the child's removal from his/her home, to reunify the child and family, and to make and finalize an alternate permanent placement when the child and family cannot be reunited as title IV-E eligibility criteria?

Answer: Section 472(a)(2)(A)(ii) of the Social Security Act (the Act) contains two eligibility criteria. The first pertains to the child's removal from home. Such removal must be based on a judicial determination that it was contrary to the child's welfare to remain at home. The second eligibility criterion requires a judicial determination that the title IV-E agency made reasonable efforts of the type described in section 471(a)(15) of the Act. Section 471(a)(15) of the Act requires the title IV-E agency to make reasonable efforts to prevent the child's removal from his/her home, to reunify the child and family, and to make and finalize an alternate permanent placement when the child and family cannot be reunited. The requirements for judicial determinations regarding reasonable efforts are title IV-E eligibility criteria. If the eligibility criteria are not satisfied, the child is not eligible for title IV-E funding.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00); 7/17/2006; (3/2/20)
- **Legal and Related References:** Social Security Act - sections 471(a)(15), 472(a)(2)(A)(ii), and 479B; 45 CFR 1356.21(b) and (d)

2. Question: May a title IV-E agency receive an extension to the time frames prescribed in the regulation for obtaining judicial determinations regarding reasonable efforts to address the problem of continuances?

Answer: We are sympathetic to the issue of continuances. However, we believe that the need for timely judicial determinations is more appropriately addressed by building capacity through training judges and attorneys rather than extending the time frames for satisfying title IV-E eligibility criteria. Therefore, no extensions may be granted.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00); (3/2/20)
- **Legal and Related References:** 45 CFR 1356.21 (b)

3. Question: May a checklist be used to document the reasonable efforts requirements?

Answer: The regulations, at section 1356.21(d), requires judicial determinations to be explicit, and made on a case-by-case basis. This requirement is made to assure that the individual circumstances of each child before the court are properly considered in making judicial determinations. If the title IV-E agency can demonstrate that such determinations are made on a case-by-case basis and documented through a checklist that will be considered acceptable in a title IV-E foster care eligibility review.

- **Source/Date:** Questions and Answers on the Final Rule (65 FR 4020) (1/25/00); (3/2/20)
- **Legal and Related References:** 45 CFR 1356.21(d)