

# Child Welfare Policy Manual

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## Questions & Answers

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### 8.3B.1 TITLE IV-E, Foster Care Maintenance Payments Program, Payments, Allowable costs

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#### 1. Question: What are the elements of costs for foster care maintenance payments under section 475 (4) of the Social Security Act (the Act)?

**Answer:** There are three groups of costs:

(1) Items of Cost: Clearly, all items of cost specifically enumerated in the Act are allowable. In addition, questions may arise about the interpretation of items, listed in the Act, particularly, "daily supervision."

(a) "Daily supervision" in family foster care - "Daily supervision" in family foster care may include such an item as child care. A foster family parent who is working while a foster child is not in school will have to arrange for some form of alternate care, such as day care, for the daily supervision of the child. However, as was stated in the legislative history of P.L. 96-272, "payments for the costs of providing care to foster children are not intended to include reimbursement in the nature of a salary for the exercise by the foster family parent of ordinary parental duties." (p. 50, House of Representatives, Report No. 96-900, April 23, 1980.)

(b) "Daily supervision" in institutional foster care - "Daily supervision" in institutions is a limited function. It includes routine day-to-day direction and supervision. It does not include social services.

(c) Social services under family foster care or institutional foster care - As with all items of care and for costs of administration and operation, the critical factor is the activity being performed and not the title or position of the performer. "Social services" are not allowable cost items as title IV-E maintenance payments under any circumstances, regardless of what type of person provides them.

Examples of unallowable "social services" are: counseling and therapy to help with a child's adjustment at the institution; counseling and therapy to help a child resolve the problem(s) for which he or she was placed; counseling and therapy with the child and his or her biological family to resolve the difficulties that led to the need for placement; counseling and therapy to plan for the return of the child to the community; and psychological or educational

testing, evaluation, and assessment. These costs may be claimed under other programs, e.g., title IV-B or title XX (Social Services Block Grant Program) of the Act or a State-funded program.

(d) Other items in family or institutional foster care - Questions have been raised regarding some other specific items. "Recreation" is not enumerated in the Act and cannot be regarded as an element of these costs except where it clearly substitutes for otherwise necessary daily supervision, e.g., day care, as discussed in (a) above. In such a case, only the minimal costs for the eligible child and caretaker may be included.

(2) Costs of providing: In both family and institutional foster care, the costs of providing the items listed in section 475 (4) may be included in payments. This is a limited added cost. However, recreation generally is not a "cost of providing". When it is a form of daily supervision, as stated in paragraph (1)(d) above, it is allowable.

In an institution, the cost of providing the items might include the costs of activities performed by cottage parents or other persons filling such a role in their daily supervision of eligible children. The key is the activity being performed rather than the occupation or profession of the individual. And, to reiterate, only the proportion of costs related to providing allowable items to title IV-E children is eligible for payment.

Inquiry has also been made regarding two other functions and performers. The costs of providing daily supervision of eligible children in an institution by a social worker is allowable; however, the costs of a social worker providing counseling and guidance related to a child's development, as contrasted with routine supervision, would not be an allowable cost. Further, only the proportion of costs attributable to title IV-E children would be allowable.

Another question relates to the costs of (1) dispensing over the counter medicines, (2) supervising the administration of prescribed medicines, (3) administering first aid and (4) diagnosing illnesses. The activities performed under numbers (1) and (2) and routine activities under (3) would be allowable. The activity described under (4) is more specialized and is not a cost of providing daily supervision. It is unlike an activity which a family foster parent would be expected to be able to perform in the course of providing "daily supervision." Again, only the proportion of costs of providing allowable items to title IV-E children are eligible for Federal financial participation (FFP).

(3) Reasonable costs of administration and operation in an eligible institution: Section 475 (4) also permits payment on behalf of eligible children in institutions to include "the reasonable costs of administration and operation of such institution as are necessarily required to provide the items [described in the same paragraph]." Factors related to the allowability of costs therefore include:

(a) The institution must meet the definition of a "child-care institution" in section 472 (c)(2) of the Act. Costs borne by child placing agencies are not eligible for FFP.

(b) The costs of administration and operation must be "necessarily required to provide the items described in [paragraph 475 (4)]." Thus, the proportional cost of a bookkeeper, food workers, and supervisor of cottage parents for the institution would be allowable. The costs of providing counseling or diagnosis of illness by a social worker or nurse or costs of the staff of a parent agency not employed by the institution would not be allowable.

(c) The costs must be "reasonable", that is, no more than the customary costs for performing similar functions in similar institutions, e.g., in size, and type of children, such as handicapped children.

(d) The costs must be allocated for title IV-E children on whose behalf payments are made.

(e) The costs must be allowable under 45 CFR Part 75. (Note: This answer previously referenced 45 CFR Part 92. 45 CFR Part 75 supersedes 45 CFR Part 92 effective December 26, 2014 (79 FR 75871, Dec. 19, 2014).)

Given these factors, the issue of cost allocation is important. Various cost allocation methods, e.g., random moment studies or actual counts, may be used by institutions in developing their cost allocation plans. The State agency must approve the plan as a part of its approval of rates.

- **Source/Date:** ACYF-CB-PA-82-01 (4/30/82) (revised 11/2/2016)
- **Legal and Related References:** Social Security Act - sections 472, 474 and 475 (4); 45 CFR Part 75; 79 FR 75871, Dec. 19, 2014; 81 FR 3022, Jan. 20, 2016

**2. Question: In child care institutions, are costs that are normally associated with family activities such as going to a baseball game, picnics, etc., allowable for Federal financial participation (FFP) in the title IV-E Foster Care Maintenance Payment Program? What about staff time for supervision, transportation, tickets, etc.?**

**Answer:** Reimbursement of recreation costs per se is not permitted under title IV-E (see the definition of "foster care maintenance payments" under section 475(4) of the Social Security Act). Since section 475(4) includes "a child's personal incidentals," however, the reasonable and occasional cost of such items as tickets or other admission fees for sporting, entertainment or cultural events or dues for clubs are reimbursable under title IV-E Foster Care as a part of the maintenance payment.

The costs of staff necessary to provide supervision to insure the well being and safety of children on or off campus are allowable even if the event has recreational components. The costs of staff merely accompanying the children but not necessary for their supervision are not allowable.

Transportation as a separate item of expense is not allowable except for reasonable travel to the child's home for visitation and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.

- **Source/Date:** ACYF-CB-PIQ-87-02 revised 08/31/09
- **Legal and Related References:** Social Security Act - sections 472, 474 and 475 (4)

**3. Question: Are all costs for day care/baby-sitting services provided to title IV-E eligible children reimbursable as a title IV-E foster care maintenance cost? If not, for which of the following purpose(s) may daycare/babysitting services be claimed for reimbursement: (1) illness of the foster parent; (2) respite care; (3) foster parent attendance at: administrative case review/judicial reviews, case conferences/team meetings, school conferences/ET (Pupil Evaluation Team), or foster parent training; (4) foster parent visits with a child who is temporarily out of the home, e.g. child hospitalized or at camp; (5) enhancement of a foster child's social skills/peer relationships/socialization; or, (6) special needs of foster child best met in a day care setting.**

**Answer:** The legislative history of Public Law 96-272 (p. 5, House of Representatives, Report No. 96-900, April 23, 1980) states that "payments for the costs of providing care to foster children are not intended to include reimbursement in the nature of a salary for the exercise by the foster family parent of ordinary parental duties." Since foster care maintenance payments are not salaries, foster parents must often work outside the home. Therefore, child care that provides daily supervision during a foster parent's working hours when the child is not in school is an allowable expenditure under title IV-E. Child care costs which facilitate the foster parent's attendance at activities which are beyond the scope of "ordinary parental duties" are allowable expenditures as well.

Child care provided to a foster child to facilitate a foster parent's participation in activities that are within the realm of "ordinary parental duties" or child care activities which are deemed a social service are not reimbursable under title IV-E. The items enumerated in the question were assessed based on these criteria.

(1) Illness of a foster parent: ensuring supervision for one's children during one's illness is an ordinary parental duty. Therefore, child care provided to a child in foster care due to the illness of the foster parent is not an allowable expenditure under title IV-E foster care maintenance.

(2) Respite care: respite care is defined in federal regulation as an allowable title IV-B child welfare service and is not an allowable expenditure under title IV-E foster care maintenance. States may use title XX to fund respite care services.

(3) Foster parent attendance at:

- a. administrative case/judicial reviews: this activity is not an ordinary parental duty. Therefore, child care is an allowable expenditure under title IV-E foster care maintenance when the foster parent(s) is required to attend administrative case/judicial reviews without the foster child;
- b. case conferences/team meetings: when the foster parent is mandated by the court or the agency to attend case conferences or team meetings without the foster child, child care is an allowable expenditure under title IV-E foster care maintenance because this activity is beyond the scope of ordinary parental duties;
- c. school conferences/ET (Pupil Evaluation Team): this activity is an ordinary parental duty and the cost of child care to provide for the foster parent's attendance at such is not an allowable expenditure under title IV-E foster care maintenance; or,
- d. foster parent training: foster parent training required by the title IV-E agency is an activity beyond the scope of ordinary parental duties. Therefore, the cost of child care to provide for the foster parent's attendance at mandatory foster parent training is an allowable expenditure under title IV-E foster care maintenance.
- (4) Foster parent visits with a child who is temporarily out of the home, e.g. child hospitalized or at camp: this is an ordinary parental duty. Child care provided to facilitate such is not an allowable expenditure under title IV-E foster care maintenance.
- (5) Enhancement of a foster child's social skills/ peer relationships/socialization: child care that serves to enhance a child's social skills is typically a social service and/or recreational activity and, as such, is not reimbursable under title IV-E foster care maintenance. However, when recreational activities clearly substitute for otherwise necessary daily supervision, e.g., child care during the foster parent's working hours, they are allowable expenditures under title IV-E foster care maintenance.
- (6) Special needs of a foster child best met in a day care setting: therapeutic child care is a social service and is not an allowable expenditure under title IV-E foster care maintenance.

Child care services for children in foster care must be rendered by a provider that is licensed, certified, or has some other formal status under State, Tribal, or local regulations in order for the title IV-E agency to claim reimbursement under title IV-E. This interpretation is consistent with the statute at section 472(c) which requires title IV-E agencies to make placements in licensed or approved foster family homes and/or child care institutions. Since foster parents must be licensed or approved, child care providers that provide a foster child daily supervision in the foster parent's stead must also be licensed or approved in order for the title IV-E agency to claim reimbursement under title IV-E foster care maintenance. Informal, episodic child care need not have such status and is presumably included in the basic title IV-E foster care maintenance payment.

- **Source/Date:** ACYF-CB-PIQ-97-01 (3/4/97); (11/7/19)
- **Legal and Related References:** Social Security Act - sections 472, 474, 475, and 479B; 45 CFR 1356.60

**4. Question:** For which of the following purpose(s) may transportation services be claimed for reimbursement as a foster care maintenance payment: (1) the foster parent's involvement in/attendance at administrative case/judicial reviews, case conferences/team meetings, school conferences, and foster parent training; (2) the travel of a child in foster care to/from the following activities: (a) allowable day care, (b) school attendance and extracurricular activities, (c) pre-placement visits, (d) foster family trips, (e) sports and cultural events, (f) administrative case/judicial reviews, (g) visitation at other locations, e.g., in the child welfare office, or, (h) visitation with siblings, other relatives, or other caretakers?

**Answer:** Local travel associated with providing the items listed in the first sentence of section 475 (4)(A) of the Social Security Act (the Act): food; clothing; shelter; daily supervision; school supplies; and a child's personal incidentals is an allowable expenditure for title IV-E foster care reimbursement.

The cost of local transportation associated with the items listed at section 475(4)(A) of the Act is presumably included in the basic title IV-E foster care maintenance payment. Transportation as a separate item of expense is not allowable except for reasonable travel to the child's home for visitation and for the child to remain in the school in which the child is enrolled at the time of placement. The items enumerated in the question were assessed based on these criteria.

(1) a. The foster parent's involvement in/attendance at administrative case/judicial reviews, case conferences/team meetings, and foster parent training: these items do not coincide with the definition at section 475 (4)(A) of the Act. Therefore, transportation associated with them is not an allowable title IV-E foster care maintenance expenditure. However, section 474 (a) (3) of the Act states that each title IV-E agency shall be entitled to a payment "... for the proper and efficient administration of the [title IV-E] plan...." Transportation to provide for a foster parent's attendance at administrative case/judicial reviews and mandatory case conferences/team meetings is an allowable title IV-E administrative expenditure because these activities provide for the proper and efficient administration of the title IV-E plan. Additionally, section 474(3)(B) of the Act states that each title IV-E agency shall be entitled to Federal financial participation for "... expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents..." Transportation and per diem to provide for foster parent's attendance at mandatory foster parent training is an allowable title IV-E training expenditure.

b. The cost of a foster parent traveling to attend school conferences in the school in which the child was enrolled at the time of placement would be an allowable foster care maintenance expenditure because section 475(4) of the Act includes the cost of reasonable travel for the child to remain in that school.

(2) The travel of a child in foster care to/from the following activities:

a. allowable day care: transportation as a separate item of expense is not allowable except for reasonable travel to the child's home for visitation. However, the costs of transporting a child in foster care to and from child care that substitutes for daily supervision are allowable and presumed to be included in the basic foster care maintenance payment;

b. school attendance and extracurricular activities: Section 475(4) of the Act includes the cost of reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement in foster care as allowable as a title IV-E foster care maintenance expenditure. Additionally, other transportation associated with the child's attendance at his/her school of origin is an allowable administrative cost under title IV-E because such transportation is related to case management and therefore necessary for the proper and efficient administration of the title IV-E plan (see Child Welfare Policy Manual section 8.1B and 45 CFR 1356.60(c)(2)). The cost of transportation to and from extracurricular activities that substitute for daily supervision is also allowable and presumed to be included in the basic title IV-E foster care maintenance payment;

c. pre-placement visits: this activity does not fall under the definition at section 475(4)(A) of the Act. Therefore, transportation to and from pre-placement visits is not an allowable foster care maintenance expenditure. However, regulations at 45 CFR 1356.60(c)(2) list "placement of the child" as an example of an allowable administrative cost;

d. foster family trips: transportation for foster family trips is not an allowable expenditure under title IV-E because these trips do not coincide with the items described at section 475(4)(A) of the Act. Transportation as a separate item of expense is not allowable except for reasonable travel to the child's home for visitation;

e. sports and cultural events: the reimbursement of recreation costs per se is not permitted under title IV-E. Since section 475(4) of the Act includes "a child's personal incidentals" the reasonable and occasional cost of such items as tickets or other admission fees for sporting, entertainment or cultural events are reimbursable under title IV-E foster care as a part of the maintenance payment. Transportation to and from these events is presumed to be included in the basic foster care maintenance payment;

f. administrative case/judicial reviews: transportation costs associated with the child's attendance at administrative case/judicial reviews are not allowable expenditures under title IV-E foster care maintenance because these activities do not coincide with the items described at section 475(4)(A) of the Act. However, transportation costs associated with the

child's attendance at administrative case/judicial reviews are allowable administrative costs under title IV-E because they provide for the proper and efficient administration of the title IV-E plan;

g. visitation at other locations, e.g., in the child welfare office: the statute provides for "reasonable travel to a child's home for visitation," however, in many circumstances, it is not possible or appropriate for visitation to occur at the child's home. Therefore, reasonable transportation costs for visits at locations other than the child's home, e.g., at the child welfare office or other location deemed appropriate by the agency, are allowable as separate expenditures under title IV-E foster care maintenance. Transportation costs for visitation are only reimbursable for the child and not for the costs of a biological parent or other relative visiting with the child. States may use title XX or title IV-B agencies may use title IV-B funds for that purpose; or

h. visitation with siblings, other relatives, or other caretakers: since section 475(4)(A) of the Act does not specify with whom visits must occur, reasonable travel for visits with siblings, relatives, or other caretakers is an allowable separate title IV-E foster care maintenance expenditure. Again, transportation costs for visitation are only reimbursable for the child and not for the costs of a relative visiting with the child. States may use title XX or title IV-B agencies may use title IV-B funds for that purpose.

- **Source/Date:** 12/31/07 revised 08/31/09; 11/07/19
- **Legal and Related References:** Social Security Act - sections 472, 474, 475, and 479B; 45 CFR 1356.60

## **5. Question: What is an acceptable profit margin for a for-profit child-care institution that services title IV-E eligible children?**

**Answer:** When contracting for goods or services with a profit-making enterprise, there is a presumption that a certain amount of profit is included in the price offered. While there are no Federal guidelines limiting the amount or percentage of profit that may be included in such a contracted price, title IV-E agencies are required to obtain the most beneficial pricing by adhering to the "Procurements by states" mandated by 45 CFR 75.326 and the cost principles at 45 CFR Part 75.403, that "... (t)o be allowable under Federal awards, costs must ... (a)Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles."

In defining "reasonable costs", 45 CFR Part 75.404 provides the following guidance:

"... A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost ... In determining reasonableness of a given cost, consideration shall be given to: Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award; The



restraints or requirements imposed by such factors as - sound business practices, arm's-length bargaining, Federal, State and other laws and regulations, and, terms and conditions of the Federal award; Market prices for comparable goods or services for the geographic area; Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government; Whether the non-Federal entity significantly deviates from the established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost."

Accordingly, when title IV-E agencies are awarding contracts to for-profit child-care institutions under title IV-E, it is whether the price itself is reasonable under the 45 CFR Part 75 Subpart E cost principle standards that will be used to determine the allowability of that cost, not the amount of profit which a contractor may be making under that contract.

Note: This answer previously referenced 45 CFR Part 92 and OMB Circular A-87. 45 CFR Part 75 supersedes 45 CFR Part 92 and OMB Circular A-87 effective December 26, 2014 (79 FR 75871, Dec. 19, 2014).

- **Source/Date:** ACYF-CB-PA-97-01 (7/25/97) (revised 11/2/2016); (revised 11/7/2019)
- **Legal and Related References:** Social Security Act - sections 472, 473, and 479B; PL 104-193; 45 CFR Part 75; 79 FR 75871, Dec. 19, 2014. ; 81 FR 3022, Jan. 20, 2016

**6. Question: Routine medical-related expenses are covered under our title IV-E agencies uniform foster care rate. However, when unexpected, expensive medical costs are incurred which are not covered by title XIX, can other Federal funds be utilized? May prescription drugs which are not covered by Medicaid or any other program be allowed as a personal incidental cost within the definition in section 475 (4) of the Social Security Act (the Act)? If so, would there be any special conditions which would have to be met (e.g. cost limits, documentation)? If not, is there any provision within title IV-E which would permit reimbursement of the costs of prescription drugs for children in foster care for which no other funding source is available?**

**Answer:** Federal medical payments on behalf of title IV-E eligible children in foster care are provided under the State's title XIX, Medicaid program, in accordance with title XIX, Medicaid Program, and with section 472 (h) of the Act. The definition of "foster care maintenance payments" in section 475 (4) of the Act does not include medical expenses as an allowable cost in title IV-E.

A title IV-E agency may not include in the title IV-E foster care maintenance payment a specific allowance for medical care - nor may a title IV-E agency be reimbursed under title IV-E for direct expenditures of the types described in the questions. The "personal incidentals" item in the foster care maintenance payment under title IV-E, as provided by section 475 (4),

may be used to meet incidental needs - and foster parents are not generally required to provide an accounting of specific expenditures, as long as the basic needs of the child are met and the maintenance payment is used for those needs.

- **Source/Date:** ACYF-CB-PIQ-84-01 (2/10/84); (11/7/19)
- **Legal and Related References:** Social Security Act - sections 472 (h), 475 (4), and 479B; Title XIX

**7. Question: How should the costs of foster parent insurance be claimed, as maintenance payments or as administrative expenditures subject to reimbursement? What types of insurance costs are allowable? Is liability insurance sometimes considered a service? What should be included in the definition of "liability insurance"?**

**Answer:** Section 475 (4) of the Social Security Act, by including "liability insurance with respect to a child" in the definition of foster care maintenance payments, gives title IV-E agencies the option of considering insurance for foster parents as a direct foster care maintenance cost or as an administrative cost of the foster care maintenance program under title IV-E.

Some title IV-E agencies include payment for insurance coverage in the monthly foster care payment to foster parents; others provide the protection through a group insurance policy or through the self-insuring procedures. Using self-insurance, the title IV-E agency may be able to provide broad coverage at low cost.

Foster parent insurance should include coverage of damages by a foster child to the home or property of the foster parents and of harm done by a foster child to another party.

- **Source/Date:** ACYF-CB-PIQ-82-04 (1/29/82); (11/7/19)
- **Legal and Related References:** Social Security Act - section 475 (4) and 479B

**8. Question: An individual is both a foster care provider and a child care provider for the same child. Is it permissible under title IV-E for the title IV-E agency to provide a title IV-E foster care maintenance payment and a Federal child care payment (title IV-A or child care development fund) to the same provider?**

**Answer:** There is nothing in title IV-E that prohibits a title IV-E agency from providing a title IV-E foster care maintenance payment and a title IV-A or child care development fund payment to the same provider for the same child. Under these circumstances, however, the title IV-E agency may not include any payment for child care in its title IV-E foster care maintenance payment for the child.

- **Source/Date:** 06/09/04; 11/07/19

- **Legal and Related References:** Social Security Act, sections 472, 474, 475(4), and 479B

**9. Question: The definition of "foster care maintenance payments" at 475(4)(A) of the Social Security Act includes payments to cover the cost of (and the cost of providing) a child's "personal incidentals." For title IV-E purposes, what does the term "personal incidentals" include?**

**Answer:** The Social Security Act requires that the title IV-E foster care maintenance payment is to cover the cost of (and the cost of providing), among other things, the personal incidentals of the child in foster care. These items are typically purchased for the child on an occasional, as-needed basis and may include a variety of items. Specifically, we consider the following categories of expenditures examples of "personal incidentals": items related to personal hygiene; cosmetics; over-the-counter medications and special dietary foods; infant and toddler supplies, including high chairs and diapers; fees related to activities, such as Boy/Girl Scouts; special lessons, including horseback riding; graduation fees; funeral expenses; and miscellaneous items such as stamps, envelopes, writing paper, film and the cost of film development for a personal camera.

Further, as stated in section 8.3B.1 of the Child Welfare Policy Manual (CWPM), the "reasonable and occasional" costs of such items as tickets or other admission fees for sporting, entertainment or cultural events or dues for clubs are reimbursable under the foster care maintenance payment as personal incidentals.

The title IV-E agency may provide for these costs in the basic foster care maintenance payment or a separate payment to the foster parent.

- **Source/Date:** 7/6/05; 11/7/19
- **Legal and Related References:** Social Security Act -- Section 475(4)(A) and 479B; CWPM Section 8.3B.1

**10. Question: In some jurisdictions, foster parents provide "respite" for a short period of time for a child in foster care who is placed with another foster parent. May the title IV-E agency claim title IV-E foster care maintenance payments for the child who goes temporarily to stay with another foster parent for respite purposes?**

**Answer:** Yes. A title IV-E agency may claim allowable title IV-E foster care maintenance payments on behalf of a child who is title IV-E eligible and is placed with a licensed foster care provider only temporarily, as a respite placement. The foster parent is not being paid to provide respite care, rather the allowable costs of an eligible child are continuing to be paid. Title IV-E foster care maintenance payments may be claimed because the child is eligible and with a licensed provider. However, foster care maintenance payments may not be made to both providers for the same period in this situation.

- **Source/Date:** September 29, 2005; November 7, 2019
- **Legal and Related References:** Social Security Act - Section 475 (4) and 479B