

Child Welfare Policy Manual

Questions & Answers

8.3C.2 TITLE IV-E, Foster Care Maintenance Payments Program, State Plan/Procedural Requirements, Case review system

1. Question: Should the time a child spends in shelter care be factored into calculating the timing for holding periodic reviews, permanency hearings, and for complying with the termination of parental rights (TPR) provision?

Answer: Under long-standing Departmental policy, shelter care is considered a form of foster care (see the definition of "foster care" at 45 CFR 1355.20). Shelter care is one of many possible settings in which children in foster care are placed. Therefore, time spent in shelter care counts in determining when to hold periodic reviews, permanency hearings, and for complying with the TPR provision.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 475 (5)(F); 45 CFR 1355.20 and 1356.21 (f)

2. Question: How is the timing for holding six-month periodic reviews and permanency hearings impacted by an interruption in a foster care episode, for example, a temporary placement in a detention facility or psychiatric hospital?

Answer: States have two options for addressing the scenario presented in this question:

First, despite the interruption in foster care, the State may choose to treat the foster care placement as continuous if the original court order pertaining to the child's removal from the home is still in effect. If the State chooses to do so, the "clock" for holding six-month periodic reviews and permanency hearings would stop while the child is placed in a facility that is outside the scope of "foster care" because the State is not required to hold such reviews and hearings for children who are not in "foster care." The timing for holding six-month periodic reviews and permanency hearings would resume in accordance with the original schedule when the child returns to a foster care setting.

Alternatively, the State may treat the placement in a facility that is outside the scope of foster care as a discharge from foster care. Obviously, if the child is discharged from foster care, the State is not required to hold six-month periodic reviews or permanency hearings for such child. The timing for holding such reviews and hearings begins anew when/if the child returns to foster care.

Regardless of the option the State chooses, no Federal financial participation is available while the child is placed in a facility that is considered outside the scope of "foster care."

- **Source/Date:** Questions and Answers on the Final Rule (65 FR 4020 (1/25/00))
- **Legal and Related References:** Social Security Act - section 475 (5); 45 CFR 1355.20

3. Question: Must the State hold six-month periodic reviews and permanency hearings for children who have run away?

Answer: If the State retains responsibility for the placement and care of the child during the runaway episode, it must continue to hold six-month periodic reviews and permanency hearings on the original schedule, even if the child has not been located.

- **Source/Date:** Questions and Answers on the Final Rule (65 FR 4020 (1/25/00))
- **Legal and Related References:** Social Security Act - sections 472 (a) and 475 (5)

4. Question: Must the State hold six-month periodic reviews and permanency hearings for children in foster care who are placed in unlicensed foster family homes?

Answer: Yes. The protections set forth at section 422(a)(10) of the Social Security Act apply to all children in foster care, regardless of a foster care provider's licensure.

- **Source/Date:** Questions and Answers on the Final Rule (65 FR 4020 (1/25/00))
- **Legal and Related References:** Social Security Act - section 422; 45 CFR 1355.20

5. Question: We understand that the timing for conducting the initial permanency hearing and six-month periodic review is based on the date the child is considered to have entered foster care. Are subsequent reviews/hearings to be held based on the date the child is considered to have entered foster care or within 12 months of the date the prior hearing or review was actually held?

Answer: Either methodology referenced in the question is consistent with and would satisfy the regulatory requirements. We will, therefore, leave the methodology employed to the State's discretion. We strongly encourage States, however, to adopt and set forth in State policy one methodology for holding the subsequent hearings/reviews to ensure consistent application across the title IV-E caseload.

- **Source/Date:** Questions and Answers on the Final Rule (65 FR 4020 (1/25/00))
- **Legal and Related References:** Social Security Act - section 475 (5); 45 CFR 1355.20

6. Question: When a child in foster care is placed in another State and the sending State transfers the child's placement and care responsibility to the receiving State's title IV-B/IV-E agency, does the "clock" re-start for determining when the case review requirements or reasonable efforts to finalize a permanency plan are due?

Answer: No. The "clock" for the case review requirements and reasonable efforts to finalize a permanency plan judicial determination begins on the date the child is considered to have entered foster care (section 475(5)(F) of the Social Security Act, 45 CFR 1355.20 and 1356.21(b)(2)). The date the child is considered to have entered foster care is the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect, or the date that is 60 days after the child's removal from the home. The child's transfer from one State to another does not alter either date. Moreover, we believe that not extending the timeframes for carrying out the protections in such circumstances is consistent with a child's sense of time and the statute's emphasis on timely permanency for children.

- **Source/Date:** 09/05/07
- **Legal and Related References:** Social Security Act - section 475(5)(F); 45 CFR 1355.20 and 1356.21(b)(2)

7. Question: Section 475(5)(I) of the Social Security Act (the Act) expands the case review system to require the title IV-B/IV-E agency to provide birth certificates, Social Security cards and other documents to certain youth who age out of foster care. To whom must the title IV-B/IV-E agency provide these documents?

Answer: Title IV-B/IV-E agencies must provide the documents to a child who is leaving foster care because he or she has attained 18 years of age or such greater age as the title IV-E agency has elected under section 475(8) of the Act unless the child has been in foster care for less than 6 months. If a youth leaves foster care after age 21, the title IV-B/IV-E agency also is required to provide the documents to such youth. Although not required, we encourage agencies to provide these essential documents to any youth who leave foster care over the age of 18.

- **Source/Date:** 6/5/2015
- **Legal and Related References:** Social Security Act – sections 475(5)(I), 475(8). Effective 9/29/15, unless ACF approves a delayed effective date.