

Child Welfare Policy Manual

Questions & Answers

8.4A TITLE IV-E, General Title IV-E Requirements, AFDC Eligibility

1. Question: Section 108(d) of the Personal Responsibility Work Opportunity Reconciliation Act (PRWORA) (as amended by the Balanced Budget Act of 1997, P.L. 105-33) links eligibility for Federal foster care and adoption assistance to the Aid to Families with Dependent Children (AFDC) program as it was in effect on July 16, 1996. Section 401(a) of PRWORA limits Federal public benefits to "qualified aliens." The term "qualified alien" was not defined or in use on July 16, 1996. How are title IV-E agencies to apply these two provisions?

Answer: Alien children must be eligible for AFDC under a State's July 16, 1996 plan and must also meet the PRWORA definition of "qualified alien" to be eligible for title IV-E foster care maintenance or adoption assistance.

- **Source/Date:** ACYF-CB-PIQ-99-01 (1/14/99) (revised 6/6/13, 2/18/20)
- **Legal and Related References:** Social Security Act - sections 472(a)(4) and 473(a)(2) (B); the Personal Responsibility Work Opportunity Reconciliation Act (PL 104-193); Balanced Budget Act of 1997 (PL 105-33)

2. Question: Under the following circumstances, is the child eligible for title IV-E foster care? Aid to Families with Dependent Children (AFDC) eligibility for a child is based on incapacity of the parent. In the month following removal, the parent is no longer consider incapacitated. By the time of the twelve month eligibility redetermination, the family is no longer eligible for AFDC. What is the title IV-E status of the child?

(Deleted 04/27/2010)

3. Question: When continued deprivation cannot be substantiated after initial eligibility has been established because the whereabouts of the parent from whom the child was removed cannot be determined, is the child no longer eligible under title IV-E?

(Deleted 04/27/2010)

4. Question: During the time the child is receiving title IV-E foster care payments, the parental rights of his parents are terminated. The child is subsequently moved into a residential care facility which is not eligible to receive foster care payments and the title IV-E case is discontinued. Later, he is again placed into a foster home and reapplication for title IV-E foster care is made. In considering eligibility for this reapplication, the deprivation at the time of court action, found initially and verified under the old foster care case, can be utilized. However, to meet the requirement of "continues to be eligible," must deprivation with regard to the natural parents again be established or may the termination of parental rights be used to constitute deprivation?

(Deleted 04/27/2010)

5. Question: Aid to Families with Dependent Children (AFDC) eligibility requires the counting of a step-parent's income. Is this requirement applicable to title IV-E?

Answer: If the State deems step-parent income available to the child pursuant to its July 16, 1996 AFDC State plan, step-parent income must be counted in determining title IV-E eligibility (45 CFR 233.20 (a)(3)(xiv)).

- **Source/Date:** ACYF-CB-PIQ-85-07 (6/25/85) (revised 6/6/13, 2/18/20)
- **Legal and Related References:** 45 CFR 233.20

6. Question: Under the Aid to Families with Dependent Children (AFDC) regulations, certain work expense deductions and disregards are allowable in determining eligibility. In determining the amount of a child's earnings, is the AFDC budgeting procedure to be followed or are title IV-E agencies allowed to establish a separate set of budgeting procedures for title IV-E?

Answer: The AFDC regulations and procedures (45 CFR 233.20) are applicable in the title IV-E foster care maintenance payments program.

- **Source/Date:** ACYF-CB-PIQ-85-07 (6/25/85) (revised 6/6/13)
- **Legal and Related References:** 45 CFR 233.20

7. Question: A State asks whether the payment standard or the Aid to Families with Dependent Children (AFDC) need standard to determine AFDC eligibility shall be used to determine eligibility for the title IV-E program.

Answer: The AFDC need standard should be used for determining eligibility for the title IV-E program. Section 472(a) of the Social Security Act defines as eligible "a child who would meet the requirements of section 406(a)... " as in effect on July 16, 1996. Section 406(a), in turn, refers to a "needy child," without reference to a payment standard. Reference to the

need standard thus flows directly from the words of the statute. The title IV-E program has never interpreted the reference to receipt of aid, in section 472(a)(3), as excluding from foster care eligibility a needy child who did not or might not have actually received AFDC because of the payment standard.

Section 472 of the Social Security Act refers to the need standard at the outset, and does not subsequently distinguish between the need and payment standards; moreover, there is no such distinction recognized in the IV-E regulations. Consistent with that framework, the reference to receipt of aid in section 472(a)(3) has been consistently understood to mean eligibility in accordance with the need standard.

Furthermore, when section 472(a)(3) states: "received aid...in or for the month in which court proceedings leading to the removal...from the home were initiated," it is not using those words as an eligibility requirement but rather, referring to the point in time when the child meets the appropriate eligibility standards. Thus, sections 472(a)(3)(A) and (B) are understood to refer to the times when the child met the 406(a) standards.

- **Source/Date:** ACYF-CB-PIQ-96-01 (10/8/96); (revised 2/18/20)
- **Legal and Related References:** Social Security Act - sections 402, 406, 407 (as in effect on July 16, 1996) and 472(a)(3); 45 CFR 1356.60 and 233.20(a)

8. Question: May the income of a foster care child be pro-rated among the siblings who are placed in the same living arrangement with that child? May resources considered similarly in the same situation? In other words, may the children be considered an assistance group or must each child be a separate assistance unit?

Answer: Each child in foster care, whether placed alone or in the same foster care facility as his or her siblings, is considered a separate unit for purposes of determining eligibility for title IV-E foster care. Only income that is actually received by a child in foster care is counted as available to meet the child's needs and the income and resources of the foster child would not be considered as available to siblings placed or living in the same foster home.

- **Source/Date:** ACYF-CB-PIQ-86-03 (5/9/86)
- **Legal and Related References:** Social Security Act - sections 406 (a) and 407 (as in effect on July 16, 1996); 45 CFR 233.90

9. Question: If, under a waiver pursuant to section 1115 (a) of the Social Security Act (an 1115 (a) waiver), the State denied benefits to a child who would otherwise meet the requirements of the Aid to Families with Dependent Children (AFDC) program, would that child then be ineligible for title IV-E foster care maintenance or adoption assistance payments, should that child come into State care?

(Deleted 02/18/2020)

10. Question: For the purpose of determining a child's AFDC eligibility at the time of the child's removal from his or her home, the child must have been living with and removed from the home of a specified relative. Who is considered a "specified relative" for this purpose?

Answer: A specified relative is defined as any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes great-great-grandparents and first cousins once removed (children of first cousins). Accordingly, for the purpose of determining title IV-E eligibility, any otherwise eligible child under age 18 who is removed from the home of a relative who is within the fifth degree of kinship to the child will be eligible for assistance under title IV-E. Also see Q7 in section 8.3A11 for the specified relative requirements for youth over age 18.

- **Source/Date:** ACYF-CB-IM-92-04 (2/24/92) (revised 6/6/13)
- **Legal and Related References:** Social Security Act - section 406 (a) (as in effect on July 16, 1996); 45 CFR 233.90(c)(1)(v)

11. Question: How does the title IV-E agency determine need and deprivation to establish a child's eligibility for title IV-E adoption assistance?

Answer: If a child's eligibility for title IV-E adoption assistance is based upon his or her eligibility for Aid to Families with Dependent Children (AFDC) as a dependent child, the title IV-E agency must determine that the child would have been AFDC-eligible in the home from which s/he was removed. To meet the AFDC criteria, the child must be both a needy child and a child who is deprived of parental support or whose principal wage earner parent is unemployed. Need exists in the child's home if the resources available to the family are below \$10,000 and meets the income test (see section 8.4A Q/A #18 of the Child Welfare Policy Manual). Deprivation exists in the home in situations where there is death of a parent, an absent parent, or a parent with a mental or physical incapacity to the extent that the parent cannot support or care for the child. At the point of the removal of a child from his or her home, a termination of parental rights (TPR) alone is not proof that deprivation exists. The factors noted here must be established based on the circumstances in that home. If the child meets these AFDC criteria at removal, no further AFDC eligibility determination is needed for adoption assistance.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006 (revised 6/6/13)
- **Legal and Related References:** Social Security Act - section 473 (a)(2); section 8.4B Q/A #18 of the Child Welfare Policy Manual).

12. Question: Pursuant to the provisions of the Foster Care Independence Act of 1999, Section 472(a) of the Social Security Act was amended to permit an increase in the value of resources allowable for title IV-E eligibility to \$10,000. What is the effective

date of this amendment?

Answer: The effective date of the amendment to section 472(a) of the Social Security Act (the Act) made by the Foster Care Independence Act of 1999 is December 14, 1999. (Note: The current citation for the foster care program is section 472(a)(3)(B) and for the adoption assistance program is section 473(a)(2)(A)(i)(I)(aa)(BB) of the Act).

- **Source/Date:** Questions and Answers on the Chafee Foster Care Independence Program 7/29/01; revised 7/17/06, 2/18/20
- **Legal and Related References:** Social Security Act - sections 472(a)(3)(B) and 473(a)(2)(A)(i)(I)(aa)(BB)

13. Question: Should a title IV-E agency include Temporary Assistance for Needy Families (TANF) payments as unearned income when determining whether a child meets the Aid to Families with Dependent Children (AFDC) requirements in effect on July 16, 1996 for title IV-E eligibility purposes?

Answer: No. As the title IV-A program, TANF should not be counted as income in determining title IV-E eligibility.

- **Source/Date:** 06/09/04 (revised 6/6/13)
- **Legal and Related References:** Section 472 of the Social Security Act.

14. Question: What is the definition of unemployed parent for purposes of completing the AFDC portion of a title IV-E eligibility determination?

Answer: The Administration for Children and Families (ACF) and the Centers for Medicaid and Medicare Services (CMS) amended the definition of unemployed parent at 45 CFR 233.101(a)(1) in 1998 in response to the replacement of the former AFDC program with the Temporary Assistance for Needy Families (TANF) program. Each State was required to establish a reasonable standard for measuring unemployment in order to determine whether an individual qualified for benefits under TANF or Medicaid and whether a child met the AFDC portion of title IV-E eligibility. The amended regulation specifically permits States to consider hours of work, dollar amounts earned, and family size in establishing the reasonable standard of unemployment.

- **Source/Date:** 6/23/03
- **Legal and Related References:** Public Law 104-193; 45 CFR 233.101(a)(1); 63 FR 42270-42275, August 7, 1998.

15. Question: How is the \$10,000 resource limit to be applied in determining eligibility for title IV-E?

Answer: The Foster Care Independence Act of 1999 amended section 472(a) of the Social Security Act to authorize an increase in the value of resources allowable for title IV-E eligibility to \$10,000. The \$10,000 resource limit applies to the resources of the child and family for the purposes of determining AFDC/title IV-E eligibility. A State may not opt to set the combined value of resources at less than \$10,000. (Note: The current citation for the foster care program is section 472(a)(3)(B) and for the adoption assistance program is section 473(a)(2)(A)(i)(I)(aa)(BB) of the Social Security Act).

- **Source/Date:** 7/6/05; 7/17/2006 (revised 6/6/13; 2/18/20)
- **Legal and Related References:** Social Security Act - Sections 472(a)(3) and 473(a)(2)(A)(i)(I)(aa)(BB)

16. Question: May States adjust the 1996 standard of need to reflect cost of living adjustments?

Answer: No. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) did not include any allowance for cost of living or adjustments for inflation in setting the July 16, 1996 look-back date. States may not adjust the 1996 standard of need to reflect cost of living adjustments, since the statutory look-back date is set at a specific point in time.

- **Source/Date:** 7/6/05
- **Legal and Related References:** Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L.104-193)

17. Question: May a title IV-E agency determine a child's title IV-E eligibility based on the Temporary Assistance for Needy Families (TANF) Program instead of the Aid to Families with Dependent Children (AFDC) Program?

Answer: No. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) retained the connection between the title IV-E program and the AFDC program and established an AFDC "look-back date" of

July 16, 1996. As such, TANF eligibility may not be substituted for an AFDC eligibility determination. States must use the title IV-A State plan that was in effect on July 16, 1996, to determine a child's AFDC eligibility. Tribal title IV-E agencies must use the title IV-A State plan that was in effect on July 16, 1996, in the State in which the child resides at the time of removal from the home to determine a child's AFDC eligibility.

- **Source/Date:** September 29, 2005 (revised 6/6/13)
- **Legal and Related References:** Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L.104-193)

18. Question: Question: One of the title IV-E eligibility requirements under section 472(a) of the Social Security Act (Act) is that a child must have been eligible for the former Aid to Families with Dependent Children (AFDC) program. As such, the title IV-E agency must determine that the child is a dependent child based on the State title IV-A plan in effect as of July 16, 1996. What process must agencies use to determine whether a child is a "needy child" under the former AFDC program, as described in former section 406(a) of the Act?

Answer: The AFDC program required that a child meet eligibility requirements related to both financial need (i.e., a "needy child") and deprivation of parental support. In response to the specific question, this answer addresses only the requirements for establishing that a child meets the requirements related to financial need under AFDC.

For AFDC eligibility determinations, the title IV-E agency must apply the former AFDC program's two-step income test to establish whether a child would have been considered a "needy child" under the State's title IV-A plan in effect on July 16, 1996. In addition to the income test, the agency must apply a test of resources. Both the two-step income and resources tests must be applied, in accordance with 45 CFR 233.20. 1

Prior to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each State set its own AFDC need standard to use in determining eligibility for the program. The term "AFDC need standard" refers to the amount of money a State determined that a particular size family needed to subsist. For title IV-E purposes, the State's need standard as of July 16, 1996, (disregarding any Section 1115(a) waivers that may have been in effect on that date) is the amount that provides the basis for both steps in the income test portion of the AFDC eligibility determination process.

The two-step income test to determine financial need under AFDC to be conducted in accord with Federal requirements and the State plan as in effect on July 16, 1996, is as follows (see 45 CFR 233.20(a)(3)(xiii) and 45 CFR 233.20(a)(3)(ii)(F)):

Step One of the Income Test-Gross Income Limitation: The title IV-E agency determines if the family's gross income is less than 185 percent of the State's AFDC need standard, after applying appropriate disregards. 2 If the family's gross income is more than 185 percent of the State's AFDC need standard, the child would have been ineligible for the program and, thus, is not eligible for title IV-E. If the family's gross income does not exceed 185 percent of the State's AFDC need standard, the title IV-E agency proceeds to the second step to continue the process of determining if a child is a needy child and would have been eligible for AFDC.

Step Two of the Income Test-Determination of Need: For this second step, the title IV-E agency compares the family's income, after applying further appropriate disregards, to 100 percent of the State's AFDC need standard, the same need standard used in step one. If the

family's income is in excess of 100 percent of the State's need standard, the child would not have been eligible for AFDC and, thus, is not eligible for title IV-E. If the family's income does not exceed 100 percent of the need standard, the child would have met the AFDC income test for eligibility.

In addition to applying the two-step income test to determine if a child would have been considered a "needy child" under AFDC, the title IV-E agency must determine whether the child's family has resources under \$10,000 in value, after appropriate disregards.³ Both the income and resources tests must be applied to the child and family in the removal home to determine eligibility for AFDC.

Once the child has been determined to be eligible for AFDC, the child remains eligible for AFDC as long as the court order that sanctioned the child's removal from the home remains in effect.

1 The two-step process has been in place since 1981. See the 1994 Green Book, 14th Edition, July 15, 1994, Section 10 for more details on the two-step process.

2 The gross income limitation -the first step of the process- was increased from 150 percent to 185 percent of the need standard by the Deficit Reduction Act of 1984 (Public Law 98-369) and implemented through regulation at 45 CFR 233.20(a)(3)(xiii).

3 Public Law 106-169 increased the resource limit to \$10,000. See the Child Welfare Policy Manual at 8.4A #15 for more information.

- **Source/Date:** April 6, 2010 (revised 6/6/13)
- **Legal and Related References:** Social Security Act § Section 472(a), Sections 406(a) and 407 (as in effect on July 16, 1996); 45 CFR 233.20(a)(3)(xiii); 45 CFR 233.20(a)(3)(ii)(F); 45 CFR 233.20(a)(2); 45 CFR 233.20(a)(2)(v)

19. Question: How does a title IV-E agency determine title IV-E eligibility for an abandoned child whose parents are unknown?

Answer: It is unlikely that a title IV-E agency would be able to determine title IV-E eligibility for an abandoned child whose parents are unknown. This situation differs from one in which a parent leaves a child with a friend or relative and is unreachable, but the identity of the parent is known. In either scenario, all of the title IV-E eligibility requirements must be met for a child on whose behalf title IV-E foster care or adoption assistance is claimed. This includes the requirement that the child meet the Aid to Families with Dependent Children (AFDC) eligibility requirements as outlined at section 472(a)(3) and 473(a)(2)(A)(i)(I)(aa)(BB) of the Social Security Act. As such, the title IV-E agency must be able to establish and verify financial need and deprivation of parental support based on the home from which the child was removed. Determining a child's financial need requires a title IV-E agency to examine the parents' income and resources. In the case in which the identity of the parents is

unknown, including when a child has been abandoned, the title IV-E agency will not have any financial information on which to make an AFDC eligibility determination. A title IV-E agency must document that a child meets all AFDC eligibility requirements; a title IV-E agency cannot presume that a child would meet the eligibility requirements simply because the child has been abandoned.

- **Source/Date:** April 6, 2006 (revised 6/6/13)
- **Legal and Related References:** Social Security Act - sections 472(a)(3), 473(a)(2) and 479B(b)

20. Question: If a child is removed from a specified relative who is the child's legal guardian, must the title IV-E agency determine whether the child meets the Aid to Families with Dependent Children (AFDC) criteria of deprivation based on the legal guardian or the parent?

Answer: A determination of deprivation is always made in relation to the child's parent for AFDC eligibility purposes. Under no circumstances does the title IV-E agency look to the legal guardian to determine deprivation. Consistent with the provision in 45 CFR 233.90(c)(1)(i), "[t]he determination whether a child has been deprived of parental support or care is made in relation to the child's natural parent or, as appropriate, the adoptive parent or stepparent described in paragraph (a) of this section." Even when parental rights have been terminated and the child is removed from a relative legal guardian, the title IV-E agency must look to the situation of the parents to determine deprivation. When determining deprivation with respect to a child who is living with a relative legal guardian, a positive determination regarding deprivation can be made based upon the fact that the child is deprived of parental support due to continued absence. Although deprivation must be based on the child's parent, this does not alter the requirement to determine whether the child would have met the AFDC criteria of financial need while living in the home of the *specified relative* from whom the child was removed (section 472(a)(3) of the Social Security Act and 45 CFR 1356.21(l)).

- **Source/Date:** 04/24/07 (revised 6/6/13)
- **Legal and Related References:** Social Security Act - sections 472(a)(3) and 479B(c)(1)(C)(ii)(II); 45 CFR 233.90(c)(1)(i) and 1356.21(l)

21. Question: In determining a child's Aid to Families with Dependent Children (AFDC) eligibility, should the state examine the household circumstances when the child was removed from home, or should the state examine the whole month in which the removal petition was initiated or the voluntary placement agreement was signed?

Answer: The state must determine a child's AFDC eligibility in or for the month in which the court proceedings were initiated or the voluntary placement agreement was signed. State title IV-E agencies must use the state's title IV-A plan (as it was in effect on July 16, 1996) to

determine if a child would have been eligible for AFDC. Tribal title IV-E agencies must use the title IV-A state plan (as it was in effect on July 16, 1996) in the state in which the child resides when the child was removed from the home to determine if a child would have been eligible for AFDC.

- **Source/Date:** December 2, 2016
- **Legal and Related References:** 472(a)(3) of the Social Security Act

22. Question: Must a State use one definition of "unemployed parent" for Medicaid, Temporary Assistance for Needy Families (TANF) and title IV-E purposes?

Answer: No. For title IV-E eligibility purposes, there is no requirement that the State use the same definition of "unemployed parent" as Medicaid and TANF. The State must use the definition that was in its Aid to Families with Dependent Children (AFDC) State plan on July 16, 1996, unless the State has used the authority under 45 CFR 233.101(a)(1) to apply a less restrictive definition to the title IV-E program.

- **Source/Date:** 04/26/07
- **Legal and Related References:** 45 CFR 233.101(a)(1)

23. Question: How should the title IV-E agency determine financial need for Aid to Families with Dependent Children (AFDC) program eligibility purposes when the child is removed from a specified relative other than a parent? Must the title IV-E agency consider the relative's income and resources?

Answer: If a child is removed from the non-parental specified relative through a contrary to the welfare judicial determination, or a valid voluntary placement agreement, the title IV-E agency determines financial need based on the financial situation of the child only. However, if the State's July 16, 1996 AFDC State plan required the title IV-E agency to consider non-parental relative income or resources, then the title IV-E agency must consider the relative's income and resources.

- **Source/Date:** 12/31/07 (revised 6/6/13)
- **Legal and Related References:** 45 CFR 233.20

24. Question: May title IV-E agencies re-determine a child's Aid to Families with Dependent Children (AFDC) eligibility after the child was determined to be AFDC eligible at removal?

Answer: No. A title IV-E agency is not required to re-determine a child's AFDC eligibility. Given the statutory changes over the years, we have eliminated the former requirement to re-determine a child's AFDC eligibility at regular intervals as we now believe it is unnecessary to conduct re-determinations for a program (AFDC) that has not been operational for nearly 14 years. Further, it is not possible to implement the option to extend

title IV-E assistance to youth in foster care over the age of 18 and require such youth to be subject to AFDC re-determinations. To do so clearly would be inconsistent with the law's amendments to provide an option for extended title IV-E assistance to older youth. Rather, a child must have met the AFDC eligibility requirements per section 472(a)(3) of the Social Security Act at the time of removal from the home or when a voluntary placement agreement is entered to be eligible for title IV-E foster care. For the purpose of title IV-E eligibility reviews, we will not review whether title IV-E agencies have conducted annual AFDC re-determinations for each child in the sample.

- **Source/Date:** April 6, 2010
- **Legal and Related References:** Social Security Act-Section 472(a)(3); Sections 406(a) and 407 (as in effect on July 16, 1996); 45 CFR 233.20.

25. Question: If a youth age 18 or older entering foster care is married, how is AFDC eligibility determined?

Answer: AFDC eligibility for a married youth who is entering foster care at age 18 or older is determined without regard to the parents/legal guardians or others in the assistance unit in the home from which the youth was removed as a younger child, and without regard to the youth's spouse.

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act - sections 472(a)(3) and 473(a)(2); ACYF-CB-PI-10-11

26. Question: If a tribal title IV-E agency's service area spans more than one state, how should the agency determine whether the child is AFDC eligible?

Answer: The tribal title IV-E agency must use the AFDC plan (as it was in effect on July 16, 1996) of the state where the child resides (479B(c)(1)(C)(ii)(II) of the Act). However, the tribal title IV-E agency may determine the state in which a child resides in accordance with tribal law or policy.

- **Source/Date:** 12/10/2015
- **Legal and Related References:** 479B(c)(1)(C)(ii)(II)

27. Question: What is the definition of “relative ? for the title IV-E program?

Answer: Except where the title IV-E statute directly references the definition of relative under the former Aid to Families with Dependent Children (AFDC) program, title IV-E agencies have the discretion to define the term “relative” for the purposes of title IV-E.

Specifically, title IV-E agencies must use the definition of “specified relatives” as described in section 406(a) of the Social Security Act (the Act) as in effect on July 16, 1996, and implemented in 45 CFR 233.90(c)(1)(v) for the following title IV-E foster care provision:

- Title IV-E foster care maintenance payment eligibility in part depends on whether a child would have received AFDC in the home of a “specified relative” from which the child was removed in or for the month of removal if the child has lived with the “specified relative” within 6 months of the child’s removal (see section 472(a)(3)(A) of the Act and Child Welfare Policy Manual 8.3A.11, Q/A #4).

Title IV-E agencies have the discretion to define “relative” when it is not otherwise defined by the statute, including under the following provisions:

- A title IV-E agency may define "relative" for purposes of claiming administrative costs for a limited period of time while the relative’s application for licensure or approval as a foster family home is pending, in accordance with 472(i)(1)(A) of the Act. (The child must have been removed from the home of a “specified relative” in order to be eligible for this administrative cost claiming.)
- A title IV-E agency may define “relative” for purposes of waiving non-safety licensing standards for relatives permitted under section 471(a)(10)(D) of the Act.
- A title IV-E agency has discretion to define the term “relative” for the purposes of the Title IV-E Kinship Guardianship Assistance Program. This means that the Children’s Bureau will accept a title IV-E plan or amendment that contains a reasonable interpretation of a relative, including a plan that limits the term to include biological and legal familial ties or a plan that more broadly includes Tribal kin, extended family and friends, or other “fictive kin” (see section 471(a)(28), section 473(d) and ACYF-CB-PI-10-11).
- Under the relative notification requirements of section 471(a)(29) of the Act, the title IV-E agency has discretion to determine the scope of the terminology "all other adult relatives." However, to the extent that it is practical, the Children’s Bureau suggests that the agency use the same definition of "relative" for the relative notification provision and the title IV-E kinship guardianship assistance program option (if the agency elects the guardianship option) (see ACYF-CB-PI-10-11).
- A title IV-E agency that elects to develop different licensing or approval standards for relative or kinship foster family homes and non-relative/non-kinship foster family homes under 45 CFR 1355.20 may define “relative” and “kin” when determining to whom they will apply the relative licensing and approval standards. The Children’s Bureau encourages agencies to define relative and kin in a way that is inclusive of tribal custom and adopt a broad definition of relative and kin for purposes of licensing and approval standards.
- A title IV-E agency that elects to claim federal financial participation for allowable administrative costs of independent legal representation provided to the relative caregiver of a child who is eligible for title IV-E foster care under 45 CFR 1356.60(c)(4)(ii), has discretion to define the term “relative.” For example, a title IV-E agency may define relative to include kin and “fictive-kin.” In exercising this discretion, the Children’s Bureau encourages title IV-E

agencies to implement a definition of “relative” that includes a wide range of kinship relationships to support early identification of relatives and kin and to help remove barriers to kinship placements.

- **Source/Date:** 8/8/2024
- **Legal and Related References:** Social Security Act sections 471(a)(10), (28) and (29), 472(a)(3)(A) and (i)(1)(A); 473(d); 45 CFR 233.90(c)(1)(v), 1355.20, and 1356.60(c)(4)(ii); Child Welfare Policy Manual 8.3A.11, Q/A #4 and 8.1B, Q/A #11; ACYF-CB-PI-10-11