

Child Welfare Policy Manual

Questions & Answers

8.4C TITLE IV-E, General Title IV-E Requirements, Child support

1. Question: As part of the Aid to Families with Dependent Children (AFDC) requirements for eligibility, the parents must sign a child support assignment form. Does this provision apply to title IV-E?

Answer: When Public Law 96-272 established title IV-E in 1980, it made no provision for the assignment of support rights as a condition of eligibility. Early developmental policy stated that under title IV-E the assignment of support rights was optional; however, section 471(a) (17) of the Social Security Act (as amended by Public Law 98-378, (effective October 1, 1984)) requires title IV-E agencies to take steps to secure an assignment of support rights on behalf of each child receiving title IV-E foster care maintenance payments. However, a child is not ineligible under title IV-E because the parent fails to comply with certain AFDC requirements in regard to child support assignment.

According to the regulations, "a child may not be denied AFDC either initially or subsequently because a parent or other caretaker relative fails to cooperate with the child support agency..." (45 CFR 233.90 (b)(4)(i)).

- **Source/Date:** ACYF-CB-PIQ-85-07 (6/25/85) (revised 6/6/13)
- **Legal and Related References:** 45 CFR 233.90

2. Question: A child for whom title IV-E adoption assistance payments are made re-enters foster care and becomes eligible for title IV-E foster care maintenance payments. Must the title IV-E agency refer the child to the title IV-D agency to establish and collect child support?

(Deleted 06/08/2022)

3. Question: If the State title IV-E agency refers to the title IV-D agency a child in foster care on whose behalf a title IV-E adoption assistance subsidy is being paid, can the court or the administrative body limit the child support award to the amount of the adoption assistance subsidy?

(Deleted 04/13/2020)

4. Question: Must adoption assistance payments be included in the definition of "all earnings and income" as described in the child support regulations at 45 CFR 302.56(c) for the purpose of determining the child support award?

(Deleted 04/13/2020)

5. Question: Section 471(a)(17) of the Social Security Act (the Act) requires title IV-E agencies to "where appropriate ? take "all steps ? to secure an assignment of the rights to child support for a child receiving title IV-E foster care maintenance payments (FCMPs). How should a title IV-E agency determine when it is "appropriate ? to secure an assignment of the rights to child support?

Answer: We are issuing revised policy for title IV-E agencies to define more narrowly "where appropriate" so that the default position in these determinations can be for the title IV-E agency not to secure an assignment of the rights to child support for children receiving title IV-E FCMPs.

Securing an assignment of the rights to child support is generally deemed not to be cost effective as analyses have shown that very low levels of collections are obtained, particularly in comparison to the costs for administering child support for children in title IV-E foster care (see references). In addition, children receiving title IV-E FCMPs have been removed from households where they would have qualified for Aid to Families for Dependent Children (AFDC) under a state's July 16, 1996 standard of need. This means that the parent(s) of these children are likely to be living in poverty. It is almost never the case that securing an assignment of the rights to child support is in the best interests of a child during the time the child is in title IV-E foster care. Parent(s) are typically required to engage in a variety of efforts and services to be successfully reunified with their child. This may include regular family time, therapy, parenting courses, and/or treatment for a substance use disorder. It's likely that reducing the income of the child's parent(s) could impede their ability to engage in reunification efforts, potentially extending the time the child spends in foster care. Given this, previous policy directing title IV-E agencies to determine 'where appropriate' on a case-by-case basis is withdrawn. Consequently, while each title IV-E agency may determine what constitutes "where appropriate", agencies should consider across-the-board policies. These policies may reflect that an assignment of the rights to child support for children in title IV-E foster care is not required except in very rare instances where there will be positive or no adverse effects on the child, or the assignment will not impede successful achievement of the child's permanency plan. For example, title IV-E agencies might consider policies reflecting that securing an assignment of the rights to child support isn't appropriate unless the parent(s) income is above a specified income level.

Where a child support referral has been made, we encourage title IV-E agencies to use the 6-month periodic reviews to re-assess whether the assignment of rights to support should continue, given this new federal policy. As always, we encourage title IV-E agencies to consult with their title IV-D counterparts when considering these issues.

References: Orange County Department of Child Support Services. (Second Edition, July 2020). Child Support and Foster Care Special Study.

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Washington Department of Social and Health Services, Economic Services Administration, Division of Child Support. (2019). Washington's Cost Effectiveness for Foster Care Child Support Cases.

<https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/Cost%20Effectiveness%20FC%20collections%20FINAL.pdf>

- **Source/Date:** 06/08/2022
- **Legal and Related References:** Social Security Act - section 471(a)(17)