

ACF

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4. **Key Words:** Statewide Automated Child Welfare Information Systems (SACWIS); SACWIS Compliance; Fostering Connections to Success and Increasing Adoptions Act of 2008; Title IV-E Requirements; AFDC Eligibility; Title IV-E Foster Care Maintenance Payments Program; IV-E Eligibility; IV-E Eligibility Re-determinations

PROGRAM INSTRUCTION

TO: State Public Assistance Agencies; Indian Tribes, Indian Tribal Organizations or Indian Tribal Consortia Administering Title IV-E of the Social Security Act; State and Tribal Information Technology Executives; SACWIS Project Managers; and Other Interested Parties

SUBJECT: Guidelines for implementing recent changes to the title IV-E foster care eligibility re-determination policy in a Statewide Automated Child Welfare Information System (SACWIS) environment and the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) (Public Law (P.L.) 110-351).

LEGAL AND RELATED REFERENCES: Social Security Act – Section 472(a), Sections 406(a) and 407 (as in effect on July 16, 1996); 45 CFR 1355.52; 45 CFR 1355.53(b)(5); P.L. 110-351; Child Welfare Policy Manual, section 8.4A, question 24.

PURPOSE: This Program Instruction (PI) provides guidance to help title IV-E agencies with SACWIS systems interpret and determine the impact of policy changes concerning title IV-E foster care eligibility re-determinations and Fostering Connections legislation.

OUTLINE: The PI contains *three* sections titled:

- Section I: Background
- Section II: Discussion
- Section III: Funding considerations

INFORMATION:

Section I: Background

Title IV-E foster care eligibility is linked to the former Aid to Families with Dependent Children (AFDC) program. To claim title IV-E funding on behalf of a child in foster care, a title IV-E agency must determine that the child would have been eligible for the former AFDC program (based on the State AFDC standards that were in place on July 16, 1996) during the month the court proceedings were initiated to remove the child or a voluntary placement agreement (VPA) was signed. Previously, title IV-E agencies were required to conduct periodic re-determinations to verify that the child continued to meet the AFDC standards for deprivation of parental care and financial need. On April 6, 2010, the Children's Bureau (CB) issued changes to the Child Welfare Policy Manual that eliminated the Federal requirement that title IV-E agencies re-determine a child's AFDC eligibility after the child was determined to be eligible at removal.

Please see website at:

http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=8#2241 for additional guidance.

The Fostering Connections legislation also made several changes with regard to the use of title IV-E funds, including the option to extend title IV-E foster care to youth aged 19–21, the option to use title IV-E funds to support kinship guardianship assistance programs, and the de-linking of Adoption Assistance eligibility from the former AFDC program.

For purposes of SACWIS compliance, our expectation is that the system continues to provide automated support to all title IV-E eligibility requirements that remain in effect¹ including any subsequent modifications in response to CB policy updates or legislative changes.

Section II: Discussion

Foster Care

CB has eliminated the requirement that title IV-E agencies re-determine a child's AFDC eligibility at regular intervals. Effective April 1, 2010, title IV-E agencies are no longer required to validate the continuation of a child's deprivation of parental support or to re-determine financial eligibility for AFDC beyond the conditions set at section 472(a)(3) of the Social Security Act (the Act) for the initial determination related to each removal episode. For the purpose of title IV-E foster care eligibility reviews, CB will no longer verify that the title IV-E agency has conducted annual AFDC re-determinations for each child in the sample of cases reviewed.

As articulated in regulations at 45 CFR 1355.53(b)(5)&(7)², a key component of any Federal SACWIS Assessment Review (SAR) will be an evaluation of how well the system automates the

¹ For detailed information please see sections 470–479B of the Social Security Act.

² 45 CFR 1355.53(b)(5)&(7) provides the regulatory basis for the automation requirement of title IV-E eligibility in a SACWIS.

support of Federal requirements, as well as a title IV-E agency's own policies. While there is no longer an expectation that SACWIS will document efforts of title IV-E agencies to conduct periodic title IV-E foster care eligibility re-determinations, the system must provide automated support for ongoing monitoring of both Federal requirements related to maintenance of title IV-E eligibility (e.g., periodic judicial findings of reasonable efforts to finalize the permanency plan) and State or Tribal program policies (e.g., foster care facility licensing standards). To satisfy the aforementioned SACWIS automation requirements, it is our expectation that the system will: (1) monitor all of the factors that make up on-going title IV-E eligibility; (2) keep a historical record of changes; (3) notify appropriate staff of such changes in a timely manner; and (4) adjust Federal claiming accordingly.

To ensure that SACWIS sufficiently automates the support of Federal requirements, CB will verify during the SAR that title IV-E agencies have employed a system that supported the automated re-determination of title IV-E eligibility through March 31, 2010. Systems that do not meet this requirement may receive findings for corrective action, technical assistance, or recommendations as part of their SAR report. To satisfy the aforementioned SACWIS regulation, it is also our expectation that a SACWIS will continue to support an ongoing ability to reflect changes to a child's title IV-E eligibility status based on updated information regarding relevant eligibility criteria. While the title IV-E agency may not claim title IV-E funds for children who were not eligible at a re-determination prior to April 1, 2010, the system functionality may also support reinstatement of title IV-E eligibility for an otherwise eligible child as of April 1, 2010. If the agency is making changes to its system to accommodate the new rules, those changes must be communicated to this office in an Advance Planning Document (APD) Update if the cost of those changes exceeds the thresholds described in our regulations at 45 CFR 95 Subpart F.

If a title IV-E agency opted to do so in its AFDC plan (as it was in effect on July 16, 1996), the agency may extend title IV-E eligibility to youth age 18 if they are full-time students in secondary school or in the equivalent level of vocational training or technical training and are reasonably expected to complete the program before they turn age 19. This "school attendance option" continues to be a viable option that must be supported by the SACWIS.

Beginning in Federal Fiscal Year (FFY) 2011, the Fostering Connections legislation amended the Act at section 475(8)(B) to provide title IV-E agencies an option to extend title IV-E payments up to age 21 (for the foster care, kinship guardianship, and adoption assistance programs) if the youth meets certain defined conditions. Guidance provided on page 5 of the ACYF-CB-PI-10-11 indicates that a title IV-E agency that has elected to implement a SACWIS system must support the extension of title IV-E assistance and additional client population through that system as applicable. All SACWIS requirements in 45 CFR 1355.52-1355.56 apply to extended title IV-E assistance, including payment authorization, and issuance.

Kinship Guardianship

The Fostering Connections legislation added an option for title IV-E agencies to use title IV-E funds to support kinship guardianship assistance programs. Section 471(a)(28) of the Act created a new plan option for States and Tribes to provide kinship guardianship assistance

payments under title IV-E. A new section 473(d)(3) of the Act identifies eligibility criteria for the kinship guardianship assistance program. Federal financial participation (FFP) is available for kinship guardianship assistance payments pursuant to section 474(a)(5) of the Act. It is our expectation that if a title IV-E agency has selected this option, its SACWIS will support any changes in policy and determine whether the associated costs may be properly claimed under the title IV-E program. If the agency is making changes to its system to accommodate the new program, and any extension of benefits to youth 19–21, those changes must be communicated to this office in an APD Update if the cost of those changes exceeds the thresholds described in our regulations at 45 CFR 95 Subpart F.

Adoption

The Fostering Connections legislation also established new Adoption Assistance criteria, including de-linking Adoption Assistance eligibility from the former AFDC program. The “*de-linking*” will be phased in over time, based on the age of the child or other conditions, beginning in FFY 2010. Title IV-E Adoption Assistance eligibility for all children will be based on the revised criteria in FFY 2018. In accordance with the previously cited regulation, it is our expectation that a title IV-E agency’s SACWIS will support this change in Federal legislation and track and maintain the eligibility factors needed to determine title IV-E adoption assistance eligibility. If the agency is making changes to its system to accommodate the new rules, and any extension of benefits to youth aged 19–21, those changes must be communicated to this office in an APD Update if the cost of those changes exceed the thresholds described in our regulations at 45 CFR 95 Subpart F.

Section III: Funding considerations

Title IV-E agencies that developed functionality supporting title IV-E eligibility determinations and re-determinations in SACWIS may continue to claim funding for the associated development or operational costs if the related activities were identified in an approved APD. Costs associated with changes to accommodate the modified Federal requirements described above may be eligible for funding as development costs. States wishing to claim development funding for the changes should submit the request in an APD Update if the cost of those changes exceed the thresholds described in our regulations at 45 CFR 95 Subpart F.

INQUIRIES: HHS – ACF/ACYF/CB/Division of State Systems

/s/

Bryan Samuels
Commissioner
Administration on Children, Youth and Families