

ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	1. Log No: ACYF-CB-IM-01-08	2. Issuance Date: November 06, 2001
	3. Originating Office: Administration for Children and Families	
	4. Key Words: Adoption Assistance Eligibility for Children who are Voluntarily Relinquished to Private, Nonprofit Agencies (Amends Policy on Voluntary Relinquishments in ACYF-CB-PA-01-01)	

INFORMATION MEMORANDUM

TO: State Agencies Administering title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: Title IV-E Adoption Assistance for Children who are Voluntarily Relinquished to Private, Nonprofit Agencies (**Amends Policy on Children who are Voluntarily Relinquished to a Private, Nonprofit Agency set forth in ACYF-CB-PA-01-01**)

LEGAL AND RELATED REFERENCES:

Sections 472(a)(2), 472(c)(2) and 473 of the Social Security Act; and sections 8.2B.10 and 8.2B.13 of the Administration for Children and Families (ACF) Child Welfare Policy Manual. (The policies in these sections of the ACF Child Welfare Policy Manual were set forth in ACYF-CB-PA-01-01 and subsequently incorporated into the policy manual.)

PURPOSE:

The purpose of this Information Memorandum is to announce an amendment to the policy on voluntary relinquishments to private, nonprofit agencies that was set forth in ACYF-CB-PA-01-01. With this amendment, title IV-E adoption assistance is available in certain circumstances for otherwise eligible children who are voluntarily relinquished to a private, nonprofit agency.

INFORMATION:

The policy on voluntarily relinquishments applies the title IV-E adoption assistance eligibility criteria to all children without regard to whether a child is relinquished to a public agency or to a private, nonprofit agency. The attached, revised sections of the ACF Child Welfare Policy Manual convey the amended policy regarding the eligibility of children for title IV-E adoption assistance when they are voluntarily relinquished. Accordingly, Section 8.2B.10 has been

revised and no longer restricts the responsibility for placement and care of voluntarily relinquished children to the State agency. Section 8.2B.13 has been revised to allow eligibility in certain circumstances for otherwise eligible children who are voluntarily relinquished to a private, nonprofit agency.

EFFECTIVE DATE:

We previously permitted otherwise eligible children who were voluntarily relinquished to private, nonprofit agencies to be eligible for title IV-E adoption assistance in certain circumstances. That policy should be followed as having been continuously in effect with no break.¹ For any child who was adopted without assistance after February 18, 2000 that the State determines would have been eligible in accordance with the policy as stated in Section 8.2B.13 of the Child Welfare Policy Manual, the State must enter into an adoption assistance agreement with the family. The State must provide assistance in accordance with the agreement retroactive to the date as of which the child would have been eligible and in the adoptive home, consistent with Federal, State and local laws. Federal financial participation is available from that date for eligible children.

INQUIRIES TO: Regional HUB Directors/Regional Administrators, Regions I-X

/s/

Wade F. Horn, Ph.D.
Assistant Secretary
for Children and Families

Attachments

¹ This policy was allowed in ACYF-PIQ-87-05 and remained in effect until the issuance of ACYF-CB-IM-00-02 which withdrew that policy issuance. The new policy was discussed in ACYF-CB-PA-01-01, dated January 23, 2001.

8.2B.13 TITLE IV-E, Adoption Assistance Program, Eligibility, Voluntary relinquishments

Question: Is a child who is voluntarily relinquished to a private, nonprofit agency eligible for title IV-E adoption assistance?

Answer: As authorized by section 473(a)(2)(A)(i) of the Act, a child is eligible for title IVE adoption assistance if s/he is removed from the home by way of a voluntary placement agreement with respect to which title IV-E foster care payments are provided, or as the result of a judicial determination that to remain in the home would be contrary to the child's welfare. However, a child who is voluntarily relinquished to either a public or private, nonprofit agency will be considered judicially removed in the following circumstances:

- (1) the child is voluntarily relinquished either to the State agency (or another public agency (including Tribes) with whom the State has a title IV-E agreement), **or** to a private, nonprofit agency; and
- (2) there is a petition to the court to remove the child from home within six months of the time the child lived with a specified relative; and
- (3) there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

Under these circumstances, the AFDC-eligible child will be treated as though s/he was judicially removed rather than voluntarily relinquished. If the State agency subsequently determines that the child also meets the three criteria in the definition of a child with special needs in section 473(c) of the Act, the child is eligible for title IV-E adoption assistance. If, however, there is no petition to remove the child from the home or no subsequent judicial determination, the child cannot be considered judicially removed for the purpose of title IV-E adoption assistance eligibility. Furthermore, if the court merely sanctions the voluntary relinquishment without making a determination that it is contrary to the child's welfare to remain in the home, the child is not eligible for title IV-E adoption assistance.

8.2B.10 TITLE IV-E, Adoption Assistance Program, Eligibility, Responsibility for placement and care

Question: Must the State have responsibility for placement and care of a child for that child to be eligible for title IV-E adoption assistance?

Answer: The eligibility requirements for adoption assistance in section 473(a)(2) of the Act do not specify that the State title IV-E agency must have placement and care responsibility for a child to qualify for adoption assistance. There are some situations, however, in which the criteria dictate that a child be under the placement and care responsibility of the State agency or that of another public agency (including Tribes) with whom the State has a title IV-E agreement in order to be eligible for title IV-E adoption assistance. These are:

- a child who is placed pursuant to a voluntary placement agreement and who must have had a title IV-E foster care maintenance payment paid on his or her behalf under the agreement, consistent with section 472(a)(2) of the Act; and
- a child who is eligible for title IV-E adoption assistance based upon his or her minor parent's eligibility for title IV-E foster care while in the custody of the State agency, consistent with section 473(a)(2)(A)(iii) of the Act.