



Determining Eligibility for Title IV-E Adoption Assistance After October 1, 2009

U.S. Department of Health and Human Services
Administration for Children and Families
Children's Bureau



Agenda

- Changes Made to Adoption Assistance Eligibility Requirements
- Refresher on Adoption Assistance Eligibility Requirements for a Child Who is Not an Applicable Child
- Adoption Assistance Eligibility Requirements for an Applicable Child
- Other Changes Made by Fostering Connections Affecting Adoption Assistance
- Resources



Changes Made to Adoption Assistance Eligibility Requirements



Changes to Adoption Assistance Eligibility

- These requirements will be phased in for an “applicable child” beginning in FY2010
- The non-revised criteria will continue to apply to a child who is not an applicable child until the phase-in is complete in FY 2018.



Who is an “Applicable Child”?

- The revised adoption assistance eligibility criteria are phased-in from FY 2010 to FY 2018 based on whether the child is defined as "an applicable child" which is determined based on either the age of the child in the year the agreement is entered into, the amount of time a child has been in foster care or whether a child is a sibling of a child who is an applicable child due to age.



Who is an Applicable Child by Age?

- **Age:** The revised program rules apply for a child who turns age 16 or older in FY 2010 and for whom an adoption assistance agreement is entered into that same year; then each subsequent year the age to apply the revised program rules decreases by two years (e.g. , children who turn 14 or older in FY 2011 and children who turn 12 or older in FY 2012) until children of any age may be eligible according to the revised criteria in FY 2018 (section 473(e)(1)(B)).



Other Ways to Become an Applicable Child

- Beginning in FY 2010, the eligibility criteria for an applicable child also apply to
 - a child who has been in **foster care** for 60 consecutive months (5 years). (section 473(e)(2))
 - a child who is a **sibling** to a child who is eligible due to his age or length in foster care (section 473(e)(3)).



Refresher on Adoption Assistance
Eligibility Requirements for a Child who is
Not an Applicable Child



Eligibility Requirements for a Child who is *Not* an Applicable Child

- For a child to be eligible for title IV-E adoption assistance, the child must meet both:
 - All three parts of Special Needs Determination
 - AND**
 - One of the Pathways to Eligibility (which differ for an applicable child)



Special Needs Determination

All three requirements must be determined by the IV-E agency prior to the finalization of the adoption:

- (1) The child cannot or should not be returned to the home of his or her parents. **AND**
- (2) There exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing title IV-E AA or title XIX medical assistance. **AND**
- (3) A reasonable, but unsuccessful, effort must be made to place the child for adoption with appropriate parents without providing AA unless it is against the best interest of the child.
(e.g. when a child has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child, it would be in the child's best interest to remain with them, and additional efforts to place the child are not required.)



Pathways to Eligibility for a Child

Who is *Not* an Applicable Child

- ❑ Child would have been **AFDC-eligible** in home of removal and was removed from the home pursuant to a **judicial determination** to the effect that to remain in the home would be contrary to the child's welfare or a voluntary placement agreement

OR

- ❑ Child is eligible for **Supplemental Security Income (SSI)**

OR

- ❑ Child is a **child of a minor parent in title IV-E foster care. The minor parent must have been removed** from their home pursuant to a **judicial determination** to the effect that to remain in the home would be contrary to the child's welfare or a voluntary placement agreement

OR

- ❑ Child **continues eligibility for IV-E AA in a subsequent adoption**



Adoption Assistance Eligibility Requirements for an Applicable Child



Eligibility for an Applicable Child

- An applicable child must still meet the same Special Needs Determination,
AND
- One of the four pathways to eligibility specific to an applicable child



Special Needs Determination

All three requirements must be determined by the IV-E agency prior to the finalization of the adoption:

- (1) The child cannot or should not be returned to the home of his or her parents. **AND**
- (2) There exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing title IV-E AA or title XIX medical assistance. **AND**
- (3) A reasonable, but unsuccessful, effort must be made to place the child for adoption with appropriate parents without providing AA unless it is against the best interest of the child.
(e.g. when a child has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child, it would be in the child's best interest to remain with them, and additional efforts to place the child are not required.)



Pathways to Eligibility for an Applicable Child

- Child meets specific **removal requirements**: If the child, at the time of the initiation of adoption proceedings, was in the care of a public or private child placement agency or Indian tribal organization pursuant to:
 - an involuntary removal in accordance a judicial determination to the effect that it was contrary to the child's welfare to remain in the home;
OR
 - a voluntary placement agreement or voluntary relinquishment
OR
- Child meets all medical and disability requirements of **Supplemental Security Income (SSI)** (An applicable child does not have to meet the needs-based requirements for SSI)
OR
- Child is a **child of a minor parent in title IV-E foster care**
OR
- Child **continues eligibility for IV-E AA in a subsequent adoption**



Additional Requirements

- All other adoption assistance requirements apply equally to an applicable child, including:
 - **Background check** requirements (471(a)(20)(a) and 45 CFR 1356.30 (b) and (c))
 - **Adoption assistance agreement** requirements (475(3) and 45 CFR 1356.40 and 1356.41)
 - Any other requirements provided in sections 473(a)-(c) of the Act unless otherwise specified.



International Adoption of an Applicable Child

- Beginning October 1, 2009 an **applicable child** who is not a citizen or resident of the U.S. and who was either adopted in another country or brought to this country for the purposes of adoption is categorically ineligible for adoption assistance, except if the child meets the eligibility criteria after the disruption of the international adoption.

- However, **the statute makes no changes to the requirement that any child must be a “qualified alien”** under PRWORA to receive adoption assistance.

- No changes were made to policies related to international adoption for a child who is *not an* applicable child.



Other Changes Made by Fostering Connections Affecting Adoption Assistance



Effect of GAP on Adoption Assistance Eligibility

- Fostering Connections also created the Guardianship Assistance Program (GAP)
- The placement of a child with a guardian and any GAP payments made during that placement will be considered to have not been made for the purposes of determining eligibility for adoption assistance for any child (section 473(a)(1)(D)).



Resources

- Additional information can be found on the Children's Bureau website, including:
- A **program instruction** on changes made to the title IV-E Adoption Assistance Program
- (ACYF-CB-PI-09-10)
- A copy of the updated **Social Security Act**
- **Answers to relevant policy questions** in the Child Welfare Policy Manual