

**CHAPTER XIII: CHILD WELFARE FUNDING MANUAL**

**SECTION 1500 – FOSTER CARE FUNDING**

**CHANGE NOTICE 02-2009**

**FEBRUARY 2009**

**I. INTRODUCTION**

Foster care services are provided in compliance with the statutory requirements of federal and state law. Federal and state law is intended to provide protections for children in foster care, who need safety and permanence, and for their families to ensure that their legal rights are maintained.

North Carolina law and policy reflect, and in some cases exceed, the federal requirements of P.L. 96-272 and its later amendments. Compliance with each requirement must be accurately and thoroughly documented in the case record as specified. Funding for foster care services is a combination of federal, state and county money. Foster care services encompass foster care administrative activities, foster care maintenance payments and training for foster care social workers and prospective foster and adoptive parents.

**STANDARD BOARD RATE (SBR)**

The General Assembly sets the standard for reimbursement for foster care maintenance payments. The standard is a graduated rate based upon the age of the child. The General Assembly raises the amount of these rates periodically. As of the writing of this manual, the Standard Foster Care Board Rates are:

Children	0-5	<u>\$475</u>
Children	6-12	<u>\$581</u>
Children	13+	<u>\$634</u>

While the General Assembly sets the amount of the foster care payments, funding for payments comes from a combination of federal, state and county money. \$15 per month per child is considered a personal needs allowance.

The county receives reimbursement for the board rate based upon the child's eligibility for IV-E, TEA or State Foster Home Funds. Federal financial participation (FFP) in Title IV-E Foster Care coincides with the state's approved Federal Medical Assistance Payment (FMAP) rate.

For reimbursement of costs up to the Standard Board Rate, there is both federal and state reimbursement provided to the counties for each eligible child. For the non-federal portion, the state reimburses half of the remaining amount and the

county assumes the other half of the remaining amount.

The FFP is recalculated and changed each October. To access the most current FFP amount, use the following website address:  
<http://www.ncdhhs.gov/control/socserv/reccorr.htm>. Once on the website, scroll down to "IV-E Penetration Rate".

The FFP is projected to decrease in the next few years. It is important for counties to know this percentage and to check for the current FFP rate. Counties receive monthly Preliminary and Final Payment Reports (PQA-020) which indicate, by child, the amount of state and federal funds that are reimbursed.

#### IV-D CHILD SUPPORT ENFORCEMENT REFERRALS

The county Director of Social Services must refer recipients of any foster care assistance payment program to the Child Support Enforcement program in **all cases unless:**

1. The establishment of paternity or the securing of support is reasonably anticipated to result in:
  - physical harm to the child; or
  - emotional harm to the child; or
  - physical harm to the foster parent or other caretaker with whom the child is living; or
  - emotional harm to the foster parent or other caretaker with whom the child is living.
2. The child for whom support is sought was conceived as a result of forcible rape or incest.
3. Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
4. The parent(s) is currently being assisted by a public or licensed private child-placing agency to resolve the issue of whether to keep the child or relinquish him or her for adoption, and the discussion has gone on for less than three months.
5. The rights of both parents have been terminated by a relinquishment or court proceeding and the child may be legally placed for adoption by the county Department of Social Services or a licensed private child-placing agency.

If child support is paid through IV-D and does not go to the county DSS, then this amount is not applied to the board payment, but is proportionally assigned to the state and the county in accordance with General Statutes and the rules of the Social Services Commission.

Except in those cases specified above, referral to the IV-D agency shall be completed for all foster care assistance cases in which deprivation is caused by the

absence of a parent, regardless of whether or not paternity has been established. There should be regular assessment of parent income to determine the amount of support to be deemed to a child in care.

In summary, county staff responsibilities require that each agency have a system for:

- determining and re-determining eligibility;
- completing the proper documents for claiming reimbursement and reviewing the reimbursement report to determine the correctness of the reimbursement;
- maintaining both eligibility and service records;
- assuring that the child is in a licensed facility;
- determining the appropriateness of an IV-D referral and making the referral when appropriate.

## II. FUNDING FOR FOSTER CARE MAINTENANCE PAYMENTS

### A. TITLE IV-A (TANF)

#### 1. TEA ELIGIBILITY REQUIREMENTS – (PROGRAM CODE R AND 0)

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 allowed some TANF funds to be used for services that had been approved under the state's former AFDC-EA program. In order to distinguish between TANF funds used primarily for Work First benefits, and TANF funds used for child welfare services, the term TEA is used for child welfare.

In order for a child to be eligible for TEA foster care services and maintenance payments, the child:

- a. must be experiencing an emergency,

The following three emergency situations apply:

- Abuse, neglect, or dependency of children;
- Situation in which a child is at risk of removal from the home;
- Situation in which return to the home of a child who is currently separated from his family may create an emergency.

The first definition may encompass children who are not part of the child welfare system or who enter the agency's legal custody during a CPS investigative/family assessment or while receiving CPS In-Home Services.

The second definition encompasses those children who enter the agency's legal custody through a delinquency or undisciplined petition. The third definition is discussed in more detail below, **and**

- b. must have lived with a parent or specified relative within six months of the eligibility determination,

The child must have lived with a parent or specified relative within six months preceding the determination of TEA eligibility. A **specified relative** is:

- **Parent**-biological mother or father, legal or alleged father, or adoptive parent.
- **Persons related by blood**, half blood, or adoption: brother, sister, grandparent, great-grandparent, great-great-grandparent, uncle or aunt, great-uncle or-aunt, great-great-uncle or-aunt, nephew, niece, first cousin, or first cousin once removed. (A first cousin once removed is defined as the child of a first cousin.)
- **Step-relative**-stepparent, stepbrother, or stepsister, **and**

- c. must not have the resources to meet the emergency.

The family must not have the resources to meet the emergency.

For foster care maintenance payment eligibility, the child must be non-IV-E eligible. Note: While TEA foster care maintenance payments may not be made for an IV-E eligible child, there are times when a child may be both IV-E and TEA eligible for administrative costs.

For example, a child has been determined IV-E eligible at the time of his entry into foster care. Five months into the placement, the agency needs to provide psychological evaluations to the parents as a means of assessing the advisability of returning the child to the home. Because IV-E cannot reimburse for such services, the agency may assess the child for TEA eligibility. Because the child has lived with his parents within six months of the TEA eligibility determination, and because return of the child to the parents might create an emergency situation in the home, the child is eligible for TEA. The former AFDC-EA program allowed reimbursement for psychological evaluations of parents.

Therefore, the child can receive IV-E foster care maintenance payments while the child and family can receive psychological services through TEA.

## 2. OTHER ELIGIBILITY REQUIREMENTS

While eligibility for IV-E foster care assistance must be established at the time of the child's entry into foster care, eligibility for TEA foster care assistance may be established at the time the child enters foster care, or before, or up to six months after the child enters care.

No matter when TEA eligibility begins, the services to the child may not be authorized for more than 364 days. If the determination of TEA eligibility is made before the child is removed from the home, TEA foster care payments may be reimbursed for the time remaining in the 364 day eligibility period. (Please note that TEA does not allow reimbursement for partial months' maintenance payments.)

Within 30 days of determination of TEA eligibility, all services **anticipated** or known to be needed should be documented on the suggested form developed by the Division. (Please see copy of "TEA Verification Form" in Appendix).

In order for TEA foster care maintenance payments to be reimbursed, the DSS 5120 and DSS 5120A (if there is a change in the family) must be accurately and thoroughly completed. The county DSS is required to have custody or placement responsibility in order to be reimbursed through TEA for foster care services. **VPA placements are generally not reimbursed through TEA unless there is very clear documentation of the emergency situation.** However, when an emergency situation can be clearly documented, all other requirements for a Voluntary Placement Agreement must be met including the requirement that funding availability cannot continue if the court has not reviewed and sanctioned the placement within 90 days. These restrictions should not be construed to imply that a VPA should continue for this length of time. Rather, the length of time for a VPA should be tailored to the needs of the child and family.

Judicial Determination Requirements-are identical to those outlined for IV-E with one exception. Whereas a child can never be IV-E eligible when "best interest" language is not included in the initial court order, subsequent orders that include the language will render the child eligible for TEA funding as long as all other judicial and

TEA eligibility requirements are met.

Until that language appears in an order, the child is not eligible for TEA and the **entire cost of care is the responsibility of the county. (Reminder: State Foster Home Funds also require the presence of "best interest" language and are not available to fund a foster care placement until that language appears in the court order.)**

**CASE PLANS** - In addition, for any child to receive a TEA foster care payment there must be a current, written Family Services Agreement with all applicable components completed at the appropriate intervals.

The Family Services Agreement serves as the formal application for services post CPS Substantiation or a finding of In Need of Services. Federal requirements specify that families must be informed that services provided to them during the provision of CPS In-Home Services or Foster Care Services will be paid for through public funds which include TANF funds.

The In-Home Services Agreement contains a statement at the bottom of each page indicating that, unless otherwise indicated, all services provided to the family are paid for by public funds, including TANF funds.

Because the In-Home Services Agreement is to be completed within 30 days of the case decision, all services that may be needed during the provision of In-Home Services must be listed during that same 30 day period. However, if completion of the In-Home Services Agreement is delayed beyond 30 days, documentation of the anticipated services must be documented on the Verification of TEA Eligibility form. (See Appendix)

Foster care maintenance payments for IV-E eligible children must continue to be made through IV-E.

TEA eligibility must be documented in the case record prior to the use of TEA funds. The child or family is not eligible for TEA unless and until all eligibility requirements are met. The date that all eligibility requirements are met is considered the date of eligibility determination.

Just as in the IV-E program, TEA funds claimed through the DSS-5094 can be used to support foster care maintenance payments only, and may not include residential treatment costs.

Retroactive eligibility determination is not allowed.

**TEA MAXIMIZATION** – Is the same as IV-E Maximization (refer to

section on Maximization). Federal regulations prohibit differential payment rates for IV-E and non-IV-E children. For a TEA eligible child placed in a licensed

child care facility that has an established Facility Rate, the county DSS will receive 100% TEA reimbursement of the amount that they pay, not to exceed the Facility Rate.

For a TEA eligible child in a residential child care facility that has no established Facility Rate, there will be no TEA reimbursement above the Standard Board Rate. This is consistent with the IV-E reimbursement policies and procedures.

For a TEA eligible child in a residential child care facility that has an established Facility Rate, but the county DSS does not pay up to the Facility Rate, TEA reimbursement to the county will be made only for the amount that the county actually pays. If a TEA eligible child is in a DSS family foster home, reimbursement will be made at 100% of the amount the county actually pays for care.

**CHILD'S RESOURCES-** If the child has resources that are used toward his cost of care and the county DSS enters the amount of the resources in Field 56, the amount of the resources will be deducted before any TEA reimbursements are made.

**HRI-R LEVEL TREATMENT FACILITIES-**for children placed in HRI-R Level Treatment Facilities, TEA and IV-E reimbursements may be claimed only for allowable expenses, including room, board, supervision, and clothing. Treatment costs are not an allowable service. The Division of Social Services, in conjunction with the Division of Mental Health, has determined a set cost for children in these facilities (Level II, Level III, and Level IV) that are based on the level of the facility, and the number of beds in the facility.

**MINOR PARENTS-**A TEA eligible minor parent who is in the agency's legal custody and whose child is placed with her, may have her foster care maintenance payment increased to provide for her child's needs.

When children are eligible for TEA foster care assistance payments, the needs of sons and daughters of these children living with them in family foster homes **may** be included in the minor parent's TEA foster care assistance payment. ("Needs" is defined as the Standard Board Rate for that age child.) The amount to be included is the amount the agency pays as the standard board rate for that age child.

The child, when included in the parent's payment, is not TEA eligible. However, the fact that a TEA payment is being made on behalf of the child of the minor parent means that the child is entitled

to Medicaid and can receive Title XX (SSBG) funding. (This means that administrative costs associated with the child of the minor parent may be covered by Title XX (SSBG). Such services as Health Support, etc could be funded through SSBG. The increase in the board payment reflects an increase in the parent's needs.

If the agency obtains custody of the minor parent's child and the child meets all of the requirements of TEA, that child can receive TEA foster care maintenance payments in his/her own right even if the minor parent and child reside in the same foster home.

As with any child who comes into the legal custody of a county Department of Social Services and who enters foster care placement, the minor parent's child should be assessed for all appropriate foster care maintenance payment categories.

### 3. **TEA ELIGIBILITY FOR CHILDREN ALREADY IN FOSTER CARE**

While most eligibility determinations for TEA will be made when the child first enters legal custody and/or placement responsibility, some children who have been in foster care for some time may also be eligible for TEA. **In no case may a child who has been in foster care longer than six months become eligible for TEA.** It may be appropriate to determine eligibility for TEA payments after a child is in care if an IV-E child loses his eligibility when deprivation no longer exists.

Children who have been in foster care for less than six months may be considered to be in a potential emergency situation. This emergency is related to the fact that the family conditions that led to the child's entry into foster care are still in existence (otherwise the child would already have been returned home), and if he were to be returned home at the time that eligibility is determined an emergency situation might be created.

The child who is assessed for TEA as part of the family before the child enters foster care will be eligible for TEA payments up to 364 days beginning with the date that the initial eligibility determination was made prior to the entry into foster care. When TEA eligibility is exhausted, the child becomes eligible for SFHF if all SFHF requirements are met.

The child who is assessed for TEA eligibility after being in foster care will be eligible for TEA payments for up to 364 days from the date of eligibility determination, provided the child lived with a parent or specified relative within six months of the eligibility determination.

The child is not eligible for TEA services beyond the 364 days unless a new emergency is identified. A new emergency occurs only when the agency has been relieved of legal custody closes the

case for child welfare services and the child must enter the agency's legal custody once more.

In some cases, a child who is receiving CPS In-Home Services must enter foster care because the conditions that led to the substantiation/in need of services finding have not resolved or have worsened. In such a case, there would be no new emergency. The same conditions persist that led the agency to become involved in the first place. Consequently, removal from the home is a continuation of the CPS service.

**4. TEA AND DSS 5094**

The [DSS 5094](#) form is used to record TEA foster care maintenance payments. The child's resources, such as SSI or SSA benefits, must be documented in Field 56. TEA reimbursement will be made to the county once the child's resources have been deducted from the reimbursement amount. TEA is reimbursed at 100%.

**B. TITLE IV-E**

Foster care eligibility determination is required for all children in the custody or placement responsibility of the Department of Social Services. Foster care assistance funding is available to provide payment for food, shelter, clothing, personal incidentals, usual school expenses, usual transportation expenses, and certain other expenses while a child is in the placement responsibility of a county Department of Social Services. This funding is available regardless of how the child comes into the agency's placement responsibility. It does not matter, therefore, whether the child came into care as a result of a Voluntary Placement Agreement, non-secure custody order, adjudication of abuse, neglect, dependency, undisciplined, or delinquency, or through relinquishment of parental rights.

The specific funding source which is available to help defray the cost of care will be established through the eligibility determination procedure.

The primary funding sources for all children are IV-E foster care payments, TEA foster care payments, and State Foster Home Fund (SFHF) foster care payments. The parents' ability to meet all or part of the child's cost of care must also be assessed. In some cases other financial resources may be available, such as SSI, SSA, VA, etc. In addition, other specialized funding for certain categories of children may be available to supplement the aforementioned sources.

In the case of IV-E and State Foster Home Funds, the child's eligibility should be evaluated at the time the child comes into care, whenever there is a change in circumstances and at periodic intervals thereafter, but no less than every 12 months. Until [initial](#) IV-E eligibility is established the

agency may not claim IV-E federal financial participation in the cost of a child's care. Therefore, it is imperative that eligibility determination be done swiftly and concurrent with the child's entry into care, **as there is no grace period.**

There may be times when the agency determines the child ineligible for IV-E in error. If it later becomes evident that the child was eligible at the time that he entered foster care placement, it is possible to go back and document how the child actually was eligible. Obviously, all eligibility requirements for IV-E would need to be evident and documented. It is always permissible to establish eligibility at a later date as long as the information reflects the facts at the time of removal.

In spite of the possible availability of other funding sources such as SSI, SSA or parental support, eligibility for one of the primary funding sources (IV-E, TEA, SFHF) **must** be determined at the time that the child enters care. Eligibility for IV-E **must** be explored first in that a child is only TEA or SFHF eligible when it has been determined that he is not eligible for IV-E foster care. SFHF or TEA foster care payments may be made while IV-E eligibility is being determined and established, since IV-E is not available until all of the eligibility requirements have been met. IV-E guidelines do allow IV-E administrative claims to be made for activities related to initial establishment of the child's IV-E eligibility (Service Code 101, Program code Z). However, IV-E maintenance (board) payments and other IVE administrative activity reimbursement may not be claimed until the first day of the month in which all eligibility requirements are met. Once IV-E eligibility has been ruled out as a possible funding source, either TEA or SFHF may be considered as an ongoing funding source, depending on the child's circumstances and the agency's resources. (See sections on TEA funding and State funding of maintenance costs)

Regardless of what resources may be available for the child, provision must be made by the county Department of Social Services that has custody or placement responsibility to provide financially for the child's basic needs, including cost of care, medical care, clothing, special needs, etc. Accurate determination of eligibility helps not only the child, but the county DSS as well. Not only is reimbursement available for part of the cost of care, but there is federal participation available for part of the administrative costs.

#### 1. INTRODUCTION TO THE CONCEPTS OF ELIGIBILITY AND REIMBURSABILITY AS RELATED TO IV-E FUNDING

Eligibility and determination of eligibility is based on the circumstances of the child's family **at the time that he entered care**. Following the format as outlined in the DSS 5120 (Rev. 2008), determination of eligibility first considers the possibility that a child will be eligible for IV-E. A child's **initial and continuing**

eligibility for IV-E foster care is tied to his/her **initial** eligibility based on AFDC-connectedness **that existed at the time the child came into care** and other factors as related to the initial court order or initial Voluntary Placement Agreement.

If a child is initially eligible, he can lose and regain eligibility. If a child is **not initially** IV-E foster care eligible because of AFDC-connectedness factors, or lack of proper findings in the initial court order, he **cannot** gain eligibility during the time the agency has placement responsibility for **this removal period**. If the agency is relieved of placement and care responsibility and the child subsequently enters foster care on a new petition or VPA, a **new initial determination** of IV-E eligibility needs to be made. If at that point the AFDC-connectedness factors and the required findings in the court orders are present, the child may be IV-E eligible for that removal period.

If a child enters foster care by way of an adoption relinquishment rather than through a court order or Voluntary Placement Agreement, the child cannot be IV-E eligible.

The child's eligibility for IV-E foster care, once established, continues as long as:

- need and deprivation (as later defined) continue,
- the child remains in the agency's custody or placement responsibility, and
- the court requirements are met at the required intervals in reference to findings of reasonable efforts to achieve a permanent plan.

Eligibility redetermination is required whenever circumstances affecting need and deprivation change, and at least every 12 months. Redeterminations of IV-E eligibility must be completed before the end of the 12th month. Until the redetermination is completed, the child is not eligible for IV-E reimbursement of foster care maintenance (board) payments or administrative costs. If the agency has documentation that the child was eligible at the date of redetermination, the agency may conduct a retroactive eligibility redetermination and seek back payments for up to eight quarters. However, this should be a rare occurrence.

When court action has terminated all parental rights, the child may continue to be eligible for IV-E, TEA or SFHF, if any of these were the funding source used at that time, as long as all other eligibility requirements continue to be met.

**NOTE:** Continuation of IV-E funding requires redetermination based on need in reference to the child's income and resources even

though the redetermination based on deprivation is fixed at the time of TPR.

Reimburse ability is tied to the child's physical placement. Regardless of the funding source, reimburse ability is always a function of the physical location of placement and could change with any change in placement. However, this loss of reimburse ability does not permanently deprive the child of future reimburse ability. Each time the child leaves a licensed facility, reimburse ability ends unless the child is moved to another licensed facility. If the child returns to a licensed facility, reimburse ability begins anew, as long as the child remains eligible.

## 2. IV-E INITIAL ELIGIBILITY

**In 1980, Congress passed sweeping legislation mandating certain protections for children in foster care and making provision for federal adoption assistance payments. Known as Title IV-E, the legislation provided for an uncapped entitlement program. Since 1980, county Departments of Social Services have been partially reimbursed for both administrative costs and foster care payments for children eligible and reimbursable for IV-E. The State and county share equally in the remaining non-federal portion of the standard board rate for eligible children. For IV-E children there may be federal participation in the amount over the standard board rate.**

In order for a child to be initially IV-E eligible, all of the following factors must be met:

### A. AFDC CONNECTEDNESS: LIVING ARRANGEMENTS

Eligibility determination is based on the circumstances of the child's family in the month of, but prior to the child's entry into foster care. For a child to be eligible for IV-E foster care assistance, the child must have AFDC connectedness, that is: AFDC would have been received by the family for the month VPA was signed, or court proceedings leading to the removal of the child were initiated, if application had been made at that time by a specified relative with whom the child was living based on the rules for AFDC recipients in effect July 16, 1996 (known as the "look back date"). Eligibility for each child must be determined based on AFDC rules. Eligibility is also based on court findings, living arrangements and financial circumstances.

**Note:** North Carolina was granted an AFDC Waiver (1115 (a)) in 1995 which allowed the state to begin the Work First program. Therefore, AFDC rules were not in effect as of July 16, 1996. However, as noted below,

AFDC rules still need to be applied in determining AFDC-connectedness for IV-E purposes.

**Note:** It is not true that being removed from a Work First Family Assistance (WFFA) household with a parent, specified relative or non-relative automatically confers AFDC-connectedness.

## B. THE REMOVAL HOME

To be eligible for title IV-E funding, a child must, among other things, be removed from the home of a parent or specified relative as the result of a voluntary placement agreement or a judicial determination that continuation in that home would be contrary to the child's welfare. Policy allows a six-month period of time during which the child can live with an interim caretaker, relative or non-relative, and still be eligible for title IV-E. If the child has not lived with the parent in the previous six months, then for IV-E eligibility, the removal home must be the home of the specified relative. If the child has not lived with a parent or specified relative within the past six months, then the child will not be IV-E eligible.

When the child is removed from a specified relative other than a parent, it is not necessary that the specified relative be named as a respondent in the petition in order for the child to be IV-E eligible as long as the child actually leaves the home of the relative, and the finding of best interest/contrary to the welfare is made in reference to why the child could not remain in the home of the relative.

If the child is removed from someone who had custody but was not a parent or specified relative then the child is not IV-E eligible unless he lived with a parent or specified relative within the previous six months. This is true even if the custodian was receiving TANF funds for the child.

### **SPECIFIED RELATIVE**

The definition of Specified relative from the ACF Child Welfare Manual is as follows:

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 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.

**Note: Also included are spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce. Step relationships are included to the same degree as blood relationships.**

## CONSTRUCTIVE REMOVAL

If the child is legally removed (DSS receives placement and care responsibility) from the home of a parent or other specified relative as the result of a judicial determination that continuation in the home would be contrary to the child's welfare, but remains physically in the home of a related or non-related interim caretaker, the child may be IV-E eligible. If the interim caretaker is not licensed, the child will not be in a reimbursable status for maintenance (board) payments, however if a relative caretaker is actively pursuing licensure, the child may be reimbursable for up to twelve months for administrative costs (109Z).

If the child remains physically in the home of the interim caretaker and has not lived with a parent or other specified relative in the previous six months – then the child will not be IV-E eligible.

### C. AFDC CONNECTEDNESS-NEED AND DEPRIVATION

1. **Need** refers to lack of sufficient financial means to meet the needs of the child. **Deprivation** refers to the absence, incapacity or unemployment or underemployment of the parent(s).
2. When a child is removed from a specified relative other than a parent, deprivation is considered to exist categorically. However need must be established based on the financial circumstances of the child in the home from which he/she has been removed. (see below).
3. In order for the child to have AFDC connectedness, regardless of whether or not assistance was received during the month of removal, both need and deprivation must exist.

### FINANCIAL NEED

The agency must establish that the child is financially needy using criteria in effect as of July 16, 1996 (disregarding the Section 1115(a) waiver that was in effect on that date in North Carolina), in the State's title IV-A plan (AFDC).

Typically, the initial determination of need is based on the home from which the child is removed pursuant to a judicial order or a voluntary placement agreement. The composition of the AFDC family assistance unit must be determined **first** in establishing whether the child is financially needy. The family assistance unit is defined as a group of individuals whose income, resources, and needs are considered as a unit for purposes of determining AFDC eligibility. It consists of the child, natural or adoptive parents and the blood or adoptive siblings living in the same household. If the child lives with a specified relative other than a parent, the family unit will consist of only the child and any siblings that also live with the same

specified relative.

Financial need must be established based on the circumstances that existed in the home of the family assistance unit during the month the court proceedings leading to the child's removal were initiated or the voluntary placement agreement was signed. In accordance with 45 CFR §206.10(a)(1)(vii), the agency must include in the family unit: the child, the natural or adoptive parents, and the blood related or adoptive siblings who are otherwise eligible and who live in the same household as the child.

Step-parents married under State law to the natural or adoptive parent and in the same household as the child also may be included in the family assistance unit. Certain individuals who live in the same household as the child must be excluded from the family assistance unit because they are not eligible for the AFDC program due to other provisions of the Act. Examples include: individuals eligible to receive Supplemental Security Income (SSI), unqualified aliens, and individuals who are ineligible for the AFDC program due to receipt of a lump sum payment from any source.

**Note: A person, who is eligible for SSI, regardless of their relationship to the child, is not counted in the family assistance unit and therefore neither their income nor resources are counted. See the DSS-5120 for details.**

## INCOME

After establishing the family assistance unit, the determination of need is made by considering all available income and resources of the individuals who are included in the family unit. Income and resources are considered available when the money or asset is accessible for use by an individual in the family unit. The income and resources of individuals who are statutorily excluded from the family unit are not considered for purposes of determining the AFDC eligibility component of need for the family unit.

The financial need of a family is measured against the State's need standard, expressed in money amounts, and is in effect in the State plan as of July 16, 1996 (disregarding the Section 1115(a) waiver that was in effect on that date in North Carolina). In considering income to determine whether need exists for the family unit in establishing initial eligibility, the State must use the AFDC program's **two step** process:

**1. STEP ONE**

After applicable disregards, the family's total available income is measured against 185% of the State's AFDC standard of need for a family of the same size. If the family's total income before application of certain earned income disregards exceeds 185% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program [45 CFR § 233.20 and § 233.20(a)(3)]. Applicable disregards include the first \$50 per month

of child support received by the family and earned income disregards for certain students. Earned income of children who are full time students is disregarded.

**2. STEP TWO**

If the family's total available income does not exceed 185% of the AFDC need standard, additional specified income disregards are applied and the family's countable income is measured against 100% of the need standard to determine AFDC eligibility. Federal law requires that certain earned income disregards be applied after eligibility otherwise is established. If the family's total available income exceeds 100% of the AFDC need standard, the child does not meet the eligibility requirements for the AFDC program [45 CFR § 233.20(a)(3)] and therefore is not eligible.

In this step, in addition to the disregards described above in step one, the agency must disregard the Earned Income Tax Credit (EITC) and the following amounts of earned income:

- \$90 per month for work expenses for individuals employed full or part time;
- For full time workers, actual expenses for dependent care up to \$175 per month for each dependent child who is at least age two or each incapacitated adult, and up to \$200 per month for each dependent child who is under age two.

**FROM THE FEDERAL CHILD WELFARE MANUAL**  
**8.4A TITLE IV-E, GENERAL TITLE IV-E REQUIREMENTS, AFDC ELIGIBILITY**

**23. Question:** How should the State determine financial need for initial 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 State 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 State determines financial need based on the financial situation of the child only.

**Source/Date:** 12/31/07

**Legal and Related References:** 45 CFR 233.20

**TABLE 1**

Number in Budget/Family Unit	1	2	3	4	5	6	7
*185% of Need	<b>\$670</b>	<b>\$873</b>	<b>\$1006</b>	<b>\$1099</b>	<b>\$1199</b>	<b>\$1291</b>	<b>\$1380</b>
**100% of Need	<b>\$362</b>	<b>\$472</b>	<b>\$544</b>	<b>\$594</b>	<b>\$648</b>	<b>\$698</b>	<b>\$746</b>
	8	9	10	11	12	13	14
*185% of Need	<b>\$1428</b>	<b>\$1502</b>	<b>\$1591</b>	<b>\$1658</b>	<b>\$1750</b>	<b>\$1835</b>	<b>\$1928</b>
**100% of Need	<b>\$772</b>	<b>\$812</b>	<b>\$860</b>	<b>\$896</b>	<b>\$946</b>	<b>\$992</b>	<b>\$1,042</b>

\*If dependents exceed 14, add \$93 for each person in excess of 14.

\*\*If dependents exceed 14, add \$50 for each person in excess of 14.

## RESOURCES

In considering the real and personal property to determine whether financial need exists for the family unit, the combined value of available, non-excludable resources for the family unit must not exceed \$10,000. (The Foster Care Independence Act of 1999 amended §472(a) of the Act to increase the resource limit to \$10,000.) Resources include such things as stocks, bonds, and real property. Excludable resources include the family's place of residence, equity in an automobile, burial plots, and funeral agreements valued up to \$1,500

## REDETERMINATIONS

After a child enters foster care, the child becomes his or her own financial unit and continuing financial need is determined by looking at the income and resources available to the child only. Remember that the earned income of a full time student is disregarded. The State does not have to measure the child's income against 100% of the need standard. As long as the child's countable income does not exceed 185% of the need standard and the child meets the \$10,000 resource limit, the child is considered to meet the financial need test under AFDC.

**Note: The federal policy allows the state to substitute the child's foster care payment rate (cost of care) for the standard of need. Therefore if the child's countable income does not exceed 185% of the payment rate and the child meets the \$10,000 resource limit, the child is also considered to meet the financial need test under AFDC. However the child must also continue to meet deprivation eligibility requirements (see below).**

## DEPRIVATION

- (1) Continued and documented parental absence or incapacity constitutes deprivation, except in cases of unemployed or underemployed parents. Absence means that either or both of the parents are out of the home and the nature of the absence causes an interruption or a termination of the parent's functioning as a provider of maintenance, physical care, or guidance of the child. Incapacity is defined as a physical or mental defect, illness, or impairment (as verified by a qualified professional) that substantially reduces or eliminates the parent's ability to support or care for a child and is expected to last at least 30 days. Eligibility ends when incapacity ends or the parent returns to the family unit.
- (2) Unemployed/underemployed only applies in two parent households. In single parent households, one of the above (in (1) will apply. Eligibility may end when the family no longer qualifies under the unemployed/underemployed parent regulation. However, the deprivation may then continue under a different category of deprivation if in fact one parent has become disabled, has died or has left the home.

**Note:** The Federal Child Welfare Policy Manual Underemployment / Unemployment of the primary wage earner (PWE) requires that the PWE must be employed less than 100 hours per month, or exceeds that standard for a particular month if the work is intermittent and the excess work is temporary.

Such work may be considered temporary if the unemployed parent worked fewer than 100 hours in the preceding two months and is expected to work fewer than 100 hours in the following month. The PWE is defined as the person who earned the most money over the previous 24 months.

## D PLACEMENT AUTHORITY AND CONTENTS OF COURT ORDER OR VOLUNTARY PLACEMENT AGREEMENT

### 1. CONTENTS OF COURT ORDER

**Note:** The judicial determinations of “contrary to the welfare” and “reasonable efforts” must be made in valid court orders, that is, court orders that the State’s statute defines as legally enforceable within the State.

The agency must have placement authority; that is, judicial approval for the child’s removal from his home. This approval must be contained in a judicial determination that has specific findings of facts and conclusions of law, which include the following provisions:

#### A. CONTRARY TO THE WELFARE

- Language relating to the need for the child’s placement must be in the very first court order

pertaining to the child's removal from home for the child to be IV-E eligible. The order must find that continuation in the home is contrary to the welfare of the child or that removal is in the best interest of the child. The statement found in the Non-Secure Custody Order, AOC-J-150, that "there are no other reasonable means available to protect the juvenile" meets this requirement. The order should also specify from whom the child is being removed. The person whose home is referenced in these findings does not have to be named on the petition, but it must be clear from the petition whose home the child is being removed from and why it is in the best interests of the child to be removed from this specific home.

- The specifics of the particular child's situation must be detailed in the court order even when the Administrative Office of the Courts form (AOC-J-150 "Order for Non-secure Custody") is used.

Such specific details and language must be in the initial court order which must be the non-secure order if the child is removed immediately by a non-secure order. It is permissible to use the petition and the details from the petition to document the specific circumstances.

- In addition, the court order must state that the agency has both legal custody and responsibility for placement and care of the child. In instances when a child is removed as a result of a hearing on the merits of the petition, rather than a non-secure order, or pursuant to undisciplined or delinquent actions, or in a motion for review, the court order issued as a result of those hearings must contain contrary to the welfare or best interests language because that would be the initial removal order.
- Note: If this is not accomplished, even if the findings are made at a later date and included in a subsequent order, IV-E eligibility cannot be established for this removal period. In like manner, a nunc pro tunc ("now as if then") order will not satisfy this requirement. The only acceptable alternative to a judicial determination with this finding is a court

transcript that documents that the judge made this determination.

- Further, NCGS-7B-507(a)(1) requires that orders for continued non-secure custody, dispositional orders and review orders “shall contain a finding that the juvenile’s continuation in or return to the juvenile’s own home would be contrary to the juvenile’s best interest”; and therefore this finding must be contained in all subsequent orders in which the agency retains custody, in order to satisfy NC law.

#### **B. REMOVAL FROM THE HOME**

- The court order with the contrary to the welfare or best interest language must result in the actual removal of the child from the home. Because it is required to have a judicial determination that remaining in the home is contrary to the welfare of the child (or removal is in the child’s best interest) for IV-E eligibility, such an order must result in a removal.
- The judicial determination that results in the child’s removal must coincide with (i.e., occur at the same time as) the agency’s action to physically or constructively remove the child, unless the court order specifies an alternative timeframe for removal. In this situation, the DSS agency must insure that any delay in placement does not in any way jeopardize the safety of the child.
- If a court makes a judicial determination that it is contrary to the child’s welfare to remain at home (without specifying an alternative timeframe) and the child does, in fact, remain at home and no removal occurs, the requirement for removal is not met and the child is ineligible for title IV-E. If the child’s safety is not at risk and the DSS chooses to offer support services to the family in-home to prevent having to remove the child, it should do so.
- If at a future date, the agency decides to place the child out of the home, then an order should be entered with the required contrary to the welfare

language at the time of the actual removal. This will be considered the initial removal court order for eligibility determination around placement. A subsequent court order, issued after the child is removed, containing the required language regarding contrary to welfare/best interests of the child, will not render a child eligible. The required provisions must be in the **initial** order that triggers placement.

- State law allows law enforcement or DSS social workers to take temporary custody of a child if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order.

### C. REASONABLE EFFORTS

- A judicial determination of reasonable efforts must be made by the court before the child will be IV-E eligible. The judicial determination must be contained in a valid court order (legally enforceable under state law). To meet this requirement, the following two items must be present:
  1. a description of the efforts DSS has made to prevent removal and
  2. the judges' determination that those efforts were reasonable or sufficient to prevent removal.

The judges' signature on the AOC-J-150 by itself does not meet this requirement. In order to make such a determination, there should be a court hearing that results in a determination that the DSS has made reasonable efforts.

The first opportunity for this to occur is usually at the first seven-day hearing.

Further, the petition supporting the non-secure custody order, should detail what efforts *the agency has made* to prevent placement and these efforts should be labeled as efforts to prevent placement. If given the current situation, no efforts to prevent removal were possible, the petition should state why no efforts were possible and the subsequent judicial determination should state that making no efforts was therefore reasonable.

- Note that there is a difference between the situation described above where making no efforts was reasonable and those situations where no efforts are required. The DSS agency is always required to make reasonable efforts to prevent removal unless one of the following situations exists. From the Code of Federal Regulations:  
Reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required if the State agency obtains a judicial determination that such efforts are not required because:
  - (i) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);
  - (ii) A court of competent jurisdiction has determined that the parent has been convicted of: Murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;
    - (A) Voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;
    - (B) Aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a voluntary manslaughter; or
    - (C) A felony assault that results in serious bodily injury to the child or another child of the parent; or,
  - (iii) The parental rights of the parent with respect

to a sibling have been terminated involuntarily.

- In cases where the agency is unable to locate the child, details of diligent efforts should be provided to the court and the subsequent judicial determination should state that the efforts of DSS were therefore reasonable.
- While the federal regulations allow a finding of reasonable efforts within 60 days of the child's entry into care, N. C. G. S. 7B-506(a) requires such a finding at the 7 day hearing (as well as all subsequent non-secure, consent orders resulting from day one conferences, dispositional and review hearings). Thus, a judicial determination regarding reasonable efforts **must** be obtained at the earliest opportunity, which will usually be in the order that results from the 7 day hearing.
- In any case, the child is not fully IV-E eligible and may not receive any IV-E funds until the reasonable efforts finding is made.
- If reasonable efforts language is not in the findings of the court order within 60 days of the child's entry into care, the child will not be eligible throughout the entire removal period.
- In some instances, children with whom the DSS has not had previous contact are placed in DSS custody. A judicial determination regarding Reasonable Efforts to prevent removal is still required. In this instance, the court may determine that based on the circumstances (DSS had no prior involvement with the situation), the efforts were reasonable or no efforts were possible due to the needs of the child.
- State law requires that once the child is in the legal custody of the agency and is placed outside the home; all subsequent court orders must also address reasonable efforts. The court order must specify whether reasonable efforts are being made to reunify the child and family, or, if reunification efforts are not in the child's best interest, what efforts the agency

has made or is making to find permanence for the child.

- For IV-E eligibility to continue, there must also be a judicial determination regarding reasonable efforts to make and finalize a permanent plan, which must be made within 12 months of the date the child is considered to have entered foster care (the earlier of the date of adjudication of abuse/neglect/dependency or 60 days after the child was actually placed in foster care). This judicial determination should contain the following three items:
  1. a statement as to what the permanent plan is and/or has been,
  2. what efforts DSS has made toward achieving this plan, and
  3. the court's determination that these efforts have been reasonable or sufficient.

If this is not done, the child will become ineligible from the end of the month that this requirement was due until the first day of the month in which such judicial findings are obtained in a court order. The specific permanent plan must be identified. (See Redetermination section for more discussion). The court must find that DSS, and not any other agency, made reasonable.

#### D. PLACEMENT AUTHORITY

- For IV-E eligibility, the DSS must have "responsibility for the child's placement and care." This means that the agency generally decides the child's specific placement. If the court issues an order naming a specific placement, the agency and the parties must be given an opportunity to present evidence and arguments in reference to the placement.
- This resulting order must demonstrate that the court undertook "bona fide" consideration of the agency's position in order to preserve IV-E eligibility. This regulation does not purport to limit a court's power, but rather specify the conditions under which an agency may be eligible to receive funds to help pay

for a child's cost of care. Courts may order specific placements, but when they order such placements and do not permit the agency to offer evidence, the agency will not receive federal funds for that placement. When the court does not agree with the agency, in order for IV-E reimbursement to be available, the order must explain the court's reason for diverging from the agency's recommendation. The prohibition against court ordered placements does not apply in cases where the court order clearly indicates an endorsement or approval of the agency's placement choice.

- **NOTE:** In cases where the county DSS is ordered to take custody of a child pursuant to a N. C. G. S. Chapter 50 and 50A custody action and any other criminal or civil action that is not a juvenile action, the court order arising from that custody action does **not** meet the IV-E eligibility requirements. Since awarding custody to DSS is not a dispositional alternative in such an action, that order should be considered an order of the court directing the DSS agency to take the necessary steps to obtain placement and care responsibility of the child, based on the facts leading to the judge's determination. These actions will result in a valid removal for IV-E purposes. The agency should **immediately** file a juvenile petition under chapter 7B asking for a non-secure order which includes the "contrary to the welfare language." The county DSS will then have the opportunity to get an order from the 7 day hearing following the issuance of the non-secure custody order in which the reasonable efforts language can be included.
- Note that in situations where DSS has no prior involvement with the child and therefore has had no opportunity to make reasonable efforts, the order should indicate that making no efforts was reasonable due to the situation around removal.

A non-secure order must be obtained on the same date that the court order was entered in the non-juvenile hearing. If the non-secure order does not occur on that same date detailing "contrary to the welfare"/"best interests" findings, the child would not be IV-E eligible. This means that the agency cannot place the child without a non-secure order

that includes the “contrary to the welfare”/“best interest” language obtained on the same day even though they have an order to take custody. Failure to do so will preclude the child from being IV-E eligible for this removal period. For additional information see [Chapter X – The Juvenile Court and Child Welfare](#).

## 2. VOLUNTARY PLACEMENT AGREEMENT (VPA)

A parent or guardian may enter into a Voluntary Placement Agreement with the DSS. [Any such agreement must be documented on the DSS-1789](#). Such an agreement must result in the removal of the child from his home and the child must be placed in a licensed foster care facility.

In instances where the child comes into care pursuant to a VPA, the agreement must contain the following provisions:

- The agreement was requested and signed by the child’s parent or legal guardian and a representative of the agency.
- The agreement specifies why it is in the child’s best interest to be placed outside the home.
- The agreement contains information about the efforts made to prevent the placement or details about why no efforts were possible.
- The agreement specifies the legal status, rights and responsibilities of all parties and contains details of the Family Services Agreement that will be fully developed with the parent or guardian in an effort to effect reunification.
- The agreement must detail a procedure for the parent to revoke the VPA and have the child returned to his home and must clarify that the parent has the right to revoke the VPA.

[According to NC law](#), placement of un-emancipated minors involving a VPA may not continue more than 90 days without a judicial review [N. C. G. S. 7B-910 (c)]. A judicial review, when a juvenile petition has not been filed, is triggered by a Motion for Review pursuant to N. C. G. S. 7B-910. At this review, the court may continue the placement for up to 90 additional days, or order the agency to file a petition for custody, or order that the VPA be dissolved and the child returned home.

[In order for a child placed by a VPA to remain IV-E eligible, the court order resulting from this review must indicate that continued placement is in the best interests of the child.](#) If the VPA is continued for a second 90 day period, the agency must renegotiate the VPA and all parties must sign. Prior to the end of the second 90 day period, the agency must file a juvenile petition and a hearing must be held prior to the 90th day or the child must be returned

home.

The agency may file a juvenile petition alleging abuse, neglect, and/or dependency and request custody at any point the VPA is in effect. If the VPA is nearing the end of its duration and the agency believes the child should remain in foster care, with the agency being given custody, a juvenile petition should be filed and the hearing on the petition must be held prior to the 180th day of placement.

Note: filing a petition and obtaining the non-secure custody of a child already placed in foster care by a VPA does not alter the fact that the child came in to care by a VPA and as a result must meet the federal requirements of such in order to be IV-E eligible. The requirements of IV-E eligibility are based on how the child came into care and do not change unless there is a new placement episode because the child was returned home and that placement episode ended.

Federal IV-E eligibility requirements have different time frames. According to these federal requirements, in order for IV-E eligibility to continue, a court hearing must occur by the 180<sup>th</sup> day and the court order resulting from this review must indicate that continued placement is in the best interests of the child.

If the court hearing does not occur by the 180<sup>th</sup> day, the child becomes ineligible for IV-E on the 181<sup>st</sup> day. If a court hearing occurs at a later date, the child cannot become IV-E eligible again during this removal period, even if a petition is filed and the agency obtains custody.

NOTE: An emancipated minor or young adult over 18 years of age in foster care on the basis of a VPA/CARS Agreement is not IV-E eligible. Court reviews are not required, since these persons are not under the jurisdiction of the Juvenile Court. Other requirements for these young adults in foster care remain in effect.

### 3. OTHER IV-E REQUIREMENTS

- Under state and federal policy, every child, whether placed through court order or VPA, must have a current written Initial Case Plan, or Family Services Agreement in place for that child with all applicable components completed at appropriate intervals. NC policy requires that an initial case plan be completed within 30 days of placement. Federal policy requires that the case plan be completed within 60 days of removal. However this is not a condition of IV-E eligibility.

NOTE: Completing the Structured Decision Making Tools in the context of case planning is an allowable IV-E administrative cost and may be claimed for IV-E eligible children. These assessments are a critical component of case planning. However, specialized assessments such as psychiatric, medical or educational assessments are not reimbursable under IV-E as they are considered medical or educational services (See Foster Care Funding for Administrative Costs).

- Federal Financial Participation (FFP) for maintenance expenses (board payments) may be claimed from the first day of placement in the month in which all initial title IV-E eligibility criteria are met. Until that time, the agency may use State Foster Home Funds or TEA funds to pay for foster care maintenance (board) payments.
- IV-E administrative reimbursement may always be claimed for time spent in determining the eligibility of a potential IV-E child whether or not the child is found to meet IV-E requirements (101 Z). However, all other IV-E foster care administrative costs may not be claimed until the first day of the month in which all initial IV-E eligibility criteria are met.
- The judicial determination that results in the child's removal from the home must coincide with (i.e., occur at the same time as) the agency's action to physically or constructively remove the child, unless the court order specifies an alternative timeframe for removal. If a court makes a judicial determination that it is contrary to the child's welfare to remain at home (without specifying an alternative timeframe) and the child does, in fact, remain at home and no removal occurs, the requirement for removal is not met and the child is ineligible for title IV-E. If the child's safety is not at risk and DSS chooses to offer support services to the family in-home to prevent having to remove the child, it should do so.
- Exception: If a child is living with an interim caretaker (relative or non-relative), but custody is removed from the parent or a different specified relative with whom the child has lived within six months prior to the present petition, the agency may allow the child to continue to remain in the home of the interim caretaker with whom s/he had been living. In this event, the interim caretaker with whom the child is living at the time that

custody is taken, if a relative **must** be offered the chance to be licensed by the agency as a foster parent. If the relative agrees to licensure, the agency **must** license the relative if the relative meets licensure requirements and the relative can receive IV-E maintenance (board) payments.

- In order to maintain IV-E eligibility during a trial home visit, it may only extend up to six months, unless a court order specifies a period longer than six months.
- During the time that the child is on the trial home visit, s/he is considered a “candidate” for foster care and must meet the usual requirements for candidacy. The county must document in the child’s case plan its intent for the child to return to foster care if the services provided during the course of the trial home visit prove unsuccessful. If it becomes necessary to return the child to out-of-home placement within the six months, or within the period of time specified by the court that was longer than six months, a new determination of IV-E eligibility is not necessary for IV-E purposes.
- It is recommended that the court order establishing the trial home visit specify that this is a trial placement and it should be specific in detailing why or under what circumstances it would last less or more than 6 months. A trial home visit is intended to be a short-term option in preparation of returning the child home permanently. If it were to continue for an extended period of time, it is likely that the circumstances of the original removal would have changed. If the court order does not specify a time period for the trial home visit, it should be assumed that the trial home visit will not last longer than six months. If the case is not motioned back into court within the six month period, the child will lose IV-E **eligibility**.
- Note: Best Practice would require that even if the trial visit is less than six months a new petition should be filed if the circumstances change. This is an important issue in building a case for permanency and it is important for the court to review and acknowledge changed circumstances. In any case, even if a new petition has not been filed, a motion for review should be filed and a hearing requested in order for

the court to be informed of the child's placement back in foster care.

- If an unaccompanied refugee child meets age, deprivation and need, and judicial determination requirements are met, he/she is eligible for IV-E foster care assistance. (Check with IMCW to determine who meets this category)
- A resident alien child whose parent or specified relative would have been prohibited from receiving AFDC by the Immigration and Naturalization Act, but would have been otherwise AFDC eligible, will be eligible for IV-E foster care assistance if the judicial determinations criteria are met.

#### 4. CHILDREN WHO ARE NOT ELIGIBLE FOR IV-E

- Undocumented alien children are not eligible for IV-E foster care assistance.
- Undocumented alien children are eligible for SFHF or all county funds.
- When a child reaches 18 years of age, IV-E eligibility ends at the end of the month of his 18<sup>th</sup> birthday.
- Children whose parents are unknown are unlikely to be IV-E eligible since verification of need and deprivation are required. Note that this is different from situations where parents are known but not available. As long as sufficient information is available to verify that requirements are met, the child may be eligible.
- The information above would also apply to children that are in care as a result of a Safe Surrender. Whether or not the child is IV-E eligible would depend on whether there was sufficient information available to verify that eligibility requirements have been met.
- **Direct Relinquishment of a Child for Adoption** - A child who enters care by a relinquishment for adoption is not eligible for IV-E foster care assistance. This is due to the fact that a judicial determination regarding a child's entry into care is required and the court review of a child awaiting adoption, which may take place subsequent to the relinquishment, does not meet this requirement. If a child comes into care by way of a court order or VPA and is

subsequently relinquished for adoption, he **may** be IV-E eligible if he meets the above eligibility criteria.

## 5. RELATED ISSUES

- **Medicaid** - Children receiving IV-E foster care assistance are categorically eligible for Medicaid. (COBRA PL 99-272) When a child is placed in another state and is eligible for IV-E foster care assistance, he is eligible for coverage under the receiving state's Medicaid program.
- **Child born to prison inmate or hospital patient** - An otherwise eligible child born to a woman who is a prison inmate or a patient in a hospital, and deprived of the support of an absent father, would be eligible for the title IV-E foster care program if removed from the "home of a relative (parent)" and placed in foster care. This is true when the child is placed in foster care awaiting the mother's release or when parental rights are terminated directly after birth. The inability of the child to return to the mother during her prisoner or patient status (or for any other reason) has no bearing on the child's eligibility for title IV-E foster care. The controlling factor in establishing initial eligibility is the deprivation of parental support. The child born to a mother who was a hospital patient or a prison inmate would be considered to be living with the parent/specified relative at the time of birth, and if placed in foster care would be removed from the **home of the mother/specified relative**
- **Delinquent/undisciplined - Children adjudicated** delinquent or undisciplined and placed by court directly into licensed foster homes may be eligible for foster care assistance if all eligibility requirements are met as detailed above. This means that the very first court order regarding the disposition of the child must contain the "best interest" (or "contrary to the welfare") provisions. [N. C. G. S. 7B-2503\(1\)\(c\) and NCGS 7B-2506\(1\)\(c\) require that any order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest.](#) While a child can become IV-E foster care assistance eligible if the "reasonable efforts" language appears in a court order no later than 60 days from the date of removal, under no circumstances can he become IV-E eligible if the "contrary to the welfare/best interest" language is omitted from the [order](#)

that coincides with the placement of the child in foster care,  
even if later included.

- **Runaway Child**-From the federal Child Welfare Policy Manual Administrative costs are allowable when a child has run away from a foster care placement. The manual states, in section 8.3c.2, Question 3, that if a State retains placement and care responsibility for a child who has run away from a foster care placement, the State must continue to perform title IV-E activities on behalf of such a child, including holding six-month periodic reviews and permanency hearings.
- **Minor Parents** - When children are eligible for IV-E foster care assistance payments, the needs of sons and daughters of these children living with them in family foster homes **may** be included in the minor parent's IV-E foster care assistance payment.(Need is equal to the Standard Board Rate for that age child.) The amount to be included is the amount the agency pays as the standard board rate for that age child. The child, when included in the parent's payment, is not IV-E eligible. However, the fact that an IV-E payment is being made on behalf of the child of the minor parent means that the child is entitled to Medicaid and can also receive Title XX (SSBG) funding. (This means that administrative costs associated with the child of the minor parent may be covered by Title XX (SSBG). Such services as Health Support, etc could be funded through SSBG. The increase in the board payment reflects an increase in the parent's needs.

If the agency accepts a VPA or obtains custody of the minor parent's child and the child meets all of the requirements of IV-E, that child can receive IV-E foster care maintenance (board) payments in his/her own right even if the minor parent and child reside in the same foster home.

If for an appropriate reason the agency accepts a VPA or gets custody of a minor parent's child and the infant is placed in a home separate from the minor parent, **at the time the VPA or custody order is issued** the infant would be IV-E eligible if all other eligibility requirements are met. The child may be eligible if the child and parent are separated in care. A determination of eligibility should be made at that point. In cases where the minor parent and the infant are placed separately and the eligibility is determined

separately, administrative costs for the infant may be claimed if the child is IV-E eligible and receiving IV-E maintenance (board) payments in his own right.

This means that agencies may elect to have the minor parent's child included in the minor parent's IV-E foster care maintenance (board) payment or to determine if the minor parent's child is IV-E eligible in his/her own right. If they do elect to increase the minor parent's payment to cover the needs of the child, requirements such as case reviews and permanency hearings are not required for the child; only the minor parent. When this is the case, the child is not considered to be "in foster care" nor is the child considered to be eligible in his/her own right for IV-E. As such, requirements such as case reviews and permanency hearings are not required.

If the agency elects to determine eligibility for the minor parent and his/her child separately, they may reside in the same foster home and each is considered to be "in foster care." It is not necessary for the minor parent and his/her child to be in separate foster homes in order for the minor parent's child to be eligible for IV-E. However, the child must have been determined abused or neglected by a parent, guardian or custodian in order for the child to be considered "removed from" a parent or specified relative. The minor parent's child must meet all IV-E eligibility requirements, including judicial determinations or VPA conditions in order for the child to receive IV-E foster care maintenance **(board)** payments, and the agency receive reimbursement for administrative costs.

From the federal Child Welfare Policy Manual:

If a teen mother and her child are both in the same foster family home and each has been determined to be eligible for title IV-E, the State can claim FFP under title IV-E foster care for both the teen mother and her child. This includes foster care maintenance (board) payments and administrative costs. In this situation, both the child and mother have been determined eligible for title IV-E foster care, and placed in a licensed foster family home. The fact that the teen mother and her child are in the same foster home does not mean that they have been "reunified" in the statutory sense, as the foster parent and not the teen parent, is responsible for the day-to-day care and supervision of the child.

If reunification of the child with the teen mother has occurred and the child is no longer under the responsibility of the State for placement and care, the child is no longer eligible for a title IV-E payment. (We use the term "reunification" here to refer to

situations in which a child is returned to the parent's control and is no longer under the care or supervision of the State.) In such situations, the State must include amounts necessary to cover the costs incurred on behalf of the child in the teen mother's title IV-E payment.

(See Section 475(4)(B)(ii) of the Act, 45 CFR 1356.21(j), and CWPM 8.3.A.5) However, once the child is no longer under the responsibility of the State for placement and care, the State cannot continue to claim administrative costs on his or her behalf since s/he is not eligible for, nor a recipient of, title IV-E foster care maintenance (board) payments.

- **CONCURRENT ELIGIBILITY**

**SSI and IV-E Eligibility - Children who receive SSI at the time they enter care may also be IV-E eligible.** While it is true that this child would not have been included in the assistance unit of an AFDC family, this child may have been able to qualify as a “dependent” child for the purposes of AFDC and thus, to render his parents eligible to receive AFDC.

If the child is otherwise eligible for AFDC, except for the receipt of SSI, he is eligible for IV-E foster care if the other IV-E requirements are met. If the child is otherwise eligible for IV-E, his/her receipt of SSI does not eliminate them from IV-E eligibility.

From the federal Child Welfare Policy Manual

**There is no prohibition in title IV-E against claiming Federal Financial Participation (FFP) for foster care maintenance (board) payments or adoption assistance payments made on behalf of a child who is receiving SSI benefits.**

Foster Care: Although eligibility for title IV-E foster care is tied to eligibility for Aid to Families with Dependent Children...and AFDC precluded concurrent eligibility for payments from AFDC and title XVI (section 402 (a)(24) of the Social Security Act), this preclusion rule is not transferable to title IV-E for the purposes of foster care maintenance (board) payment eligibility determinations. A child, if eligible, may receive benefits from both programs simultaneously. In cases where the child is eligible for both SSI and title IV-E and there is concurrent receipt of payments from both programs,

**"the child's SSI payment will be reduced dollar for dollar**

**without application of any exclusion"**, thus decreasing the SSI benefit by the amount of the title IV-E payment (SSI Program Operations Manual). To reiterate, concurrent receipt is subject to the SSI rule that the SSI payment will be reduced by the amount of the foster care payment.

For example, if the child's SSI payment is \$600 and the board payment is \$490, the child's SSI payment would be reduced by \$490, resulting in a SSI payment amount of \$110.

- The county DSS may also choose to use either IV-E or SSI to fund the child's cost of care. The difference between title XVI (SSI) and title IV-E should be considered carefully by the decision maker when choosing whether to apply for either or both title IV-E or SSI benefits on behalf of the child. Information regarding the benefits available under each program should be carefully considered so that an informed choice can be made in the child's best interest.
- To achieve this goal, local DSS agencies should exchange information regarding eligibility requirements and benefits with local Social Security district offices and establish formal procedures to refer clients and their representatives to the local Social Security district office for consultation and/or application when appropriate.

If a county DSS chooses to claim IV-E foster care reimbursement to pay for a child's cost of care, rather than utilize SSI payments, the county DSS may request from the local Social Security office that the child be placed on inactive status. A child may be placed on inactive status for up to one year, without having to re-qualify for SSI. Having the SSI payment reinstated without reestablishing the child's SSI eligibility is particularly advantageous for children who are being reunited with their families, who are being placed with relatives or kin, or who are being emancipated prior to their eighteenth birthday. The child's resources do NOT affect eligibility for programming paid through IV-E Independent Living Funds.

If a child is eligible for title IV-E but the county chooses to fund the child's cost of care with SSI rather than IV-E, the county may claim IV-E funding for title IV-E administrative functions performed on behalf of that child (program code Z).

**Note: SSI benefits, including funds conserved for the child in dedicated accounts, are not countable in determining the child's resources.**

### 3. PROCEDURES FOR DETERMINING IV-E REIMBURSABILITY

Regardless of the funding source, reimburse ability is always a function of the physical location of the placement and could change with any change in placement. This loss of reimburse ability does not permanently deprive the child of future reimburse ability. Each time the child leaves a licensed facility, reimburse ability would end unless the child is moved to another licensed facility. For example, if the child is placed in an unlicensed placement, which may include the home of a relative, a parent, a hospital, etc., the child is not in a reimbursable status.

If the child subsequently returns to a licensed facility, the child would once again be in a reimbursable status as long as eligibility has been correctly re-determined.

#### A. TYPE OF PLACEMENT

Regardless of the category of eligibility, the child must reside in an approved, licensed foster care facility that has an ID number issued by the North Carolina Division of Social Services.

There are some appropriate placements for which reimbursement may not be claimed, such as training schools or treatment hospitals, for which other sources of funding are available (for a complete discussion of approved licensed facilities, please see the Child Placement and Payment System manual).

It is not appropriate for a child to be residing in an unlicensed home or facility unless the court has specifically sanctioned such placement. Even with court approval, a child in such a placement would not be in a reimbursable status and the agency cannot receive state or federal funds for the cost of care. However, under very limited circumstances, administrative costs may still be claimed. See "Foster Care Funding for Administrative Costs" below.

Children can properly be placed with relatives or kin as part of concurrent planning and to prevent removal from the family system, but, as in the above instance, these children are not in a reimbursable status and foster care assistance payments are not eligible for reimbursement for the Federal or State funds unless the home is licensed. As previously stated, such relatives **must** be offered foster care licensure and if they accept, must be licensed by the agency as foster parents if licensure requirements are met.

Children who are legally free for adoption may be placed in an unlicensed adoptive home, but again, they are not in a reimbursable status and no State or Federal funds can be used for

reimbursement of foster care payments. If an adoptive home is licensed for foster care, this placement qualifies for foster care payments until the Decree of Adoption at which time Adoption Assistance may begin. **TEA may not be used for Adoption Assistance payments.**

**NOTE:** When any payment is made to an unlicensed home or facility, even if the placement is ordered by the court, the cost of care is the responsibility of the county and no state or federal reimbursement may be claimed.

#### **B. OUT OF STATE PLACEMENT**

When a child in county DSS custody or placement responsibility is placed out of state with the approval of the Interstate Compact on the Placement of Children, the county DSS retains financial responsibility for that child. Reimburse ability is only available if the out of state home is licensed or approved according to the standards of that state and the home is issued a facility identification number.

In order for the out-of-state home to be issued a N.C. facility identification number that will be accepted for reimbursement purposes, verification of the license, certification or approval must be received by the Division's Licensing and Policy Team. The receiving state must agree to supervise the child, and the facility must be in compliance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act of 1990.

#### **C. COORDINATION BETWEEN INCOME MAINTENANCE AND SERVICES STAFF**

The determination of IV-E Eligibility is a Services Function, reimbursed on the Services section of the DSS-1571. However, Income Maintenance workers must determine the AFDC-need portion of initial eligibility. In many cases, it is not the foster care social worker that determines initial IV-E eligibility for a child; it is the child protective services social worker. There are many occasions when the child protective services social worker must complete the steps necessary to obtain legal custody and placement responsibility and place the child. It is essential that child protective services social workers, foster care social workers and income maintenance staff cooperate closely in order to ensure that an appropriate determination is made. In addition, county social work staff has responsibility for ensuring that the requirements of P.L. 96-

272 are met. These requirements have been accelerated by ASFA.

These provisions include, among other things, case plans, case reviews, and timely court reviews.

Each staff person will have specific responsibilities that will ensure accurate eligibility determination. It is recommended that services staff provide the income maintenance caseworker (IMCW) with information that will allow the IMCW to determine AFDC need based on the eligibility requirements in effect under the former AFDC program.

Information required to determine need may be gathered from agency records, contacts with relatives, court orders and any other relevant source. For those children for whom there is no AFDC-connectedness, documentation of the determination of SFHF or, at the agency's discretion TEA, eligibility should proceed. A partnership between services and income maintenance staff is clearly critical.

County DSS Children's Services staff retains continuing responsibility for on-going redetermination as they become aware of changes in circumstances related to both eligibility and/or reimburse ability.

#### **D. USE OF DSS-5120**

The DSS-5120 is the required form used for gathering the information which will assist in eligibility determination. The form is initiated by the service worker, who then submits it to the IMCW for a determination regarding AFDC need. The actual determination of IV-E eligibility must be made based on the combination of circumstances around removal, the AFDC eligibility and the contents of the court orders or Voluntary Placement Agreement.

The 5120 form is the tool that both aids in the determination of eligibility and assures documentation of the accuracy of the determination. Each person involved in the eligibility determination process must assure that the 5120 is completely and accurately filled out at the time the child comes into care. Each piece of information must be verified.

While the 5120 form must begin at the time the child initially comes into care, total eligibility determination may not be completed until the court order containing "reasonable efforts" language is issued.

A finding of reasonable efforts must be included in the hearing on the non secure court order. Such a finding may be made as a part of the "day one" conference if the agreement is signed by a judge,

but such a finding should be made no later than the 7 day hearing on the non-secure order. A finding of reasonable efforts must be made no later than 60 days from the date that the child enters care in order for the child to be IV-E eligible. North Carolina law requires that every court order placing or continuing the placement of a child in the legal custody of a county Department of Social Services must contain reasonable efforts language.

The first court order containing reasonable efforts language must detail the efforts the agency has made to prevent the placement of the child, or, if placement was made as a result of an emergency situation, the court order must state that no reasonable efforts were possible and therefore making no efforts was reasonable.

Subsequent court orders continuing placements of children in the legal custody of a county Department of Social Services must contain findings about what reasonable efforts the agency is making to reunify the child with his family.

Court reports prepared by the social worker should speak directly to these reasonable efforts so that the court order may reiterate verbatim the details of the court report as the court's own findings of fact.

If the plan for the child is not reunification, but is placement with an adoptive family or custody with a relative, the court finding must detail specifically what reasonable efforts the agency is making to achieve a permanent plan for the child. Again, if the court report prepared by the agency social worker details the specifics of these efforts, the court can use these details as the court's own findings of fact that the agency has made "reasonable efforts to finalize a permanent plan." It is not enough merely to state that the agency has made reasonable efforts to prevent a placement, or that the agency has made reasonable efforts to finalize a permanent plan. The details of the agency's efforts in either case must be specific and relevant to the individual child's situation.

North Carolina law requires that "reasonable efforts" language be present in any court order placing or continuing the placement of a child in the legal custody of a county Department of Social Services.

Please keep in mind that continuances are likely to adversely affect the child's eligibility status. In continuances there can be no findings.

The DSS 5120 and DSS 5120a must contain accurate information in order for IV-E determinations to be accurate. Of particular importance are questions relating to dates of court orders, Voluntary Placement Agreements, living arrangements for the child, and family income. Because the DSS 5120 is the means by which justification is made for claims for IV-E, TEA and SFHF, it is essential that these

dates be correct.

North Carolina may lose substantial funding if these forms are not completed correctly.

**E. ELIGIBILITY REDETERMINATION (DSS-5120A)**

On-going eligibility requires that case plans be developed and administrative and court reviews held in a timely manner at proper intervals. In addition, eligibility for IV-E foster care payments must be predetermined every time there is information known that will affect need or deprivation. Eligibility for IV-E must be predetermined every 12 months, at a minimum or when circumstances affecting need or deprivation change. Redeterminations of IV-E eligibility must be completed before the end of the 12th month. Until the redetermination is completed, the child is not eligible for IV-E reimbursement of foster care maintenance (board) payments or administrative costs.

If the agency has documentation that the child was eligible at the date of redetermination, but for a valid reason has been unable to complete the redetermination by the end of the 12th month, the agency may conduct a retroactive eligibility redetermination. However, this should be a rare occurrence.

The agency may begin to claim IV-E beginning with the first day of the month in which all redetermination eligibility requirements are corrected.

SFHF eligibility continues as long as case plans, administrative and court reviews are current, the child is in the agency's placement responsibility and the child is in a licensed facility.

TEA eligibility, once established, remains in effect until the agency closes the case for services or 364 consecutive days elapse, whichever comes first. TEA foster care assistance payments may continue for a maximum of 364 days. The 364 days begins when TEA eligibility is first determined, which may be during provision of CPS In-Home services. Such payments must cease at the 364<sup>th</sup> day or when custody is no longer vested in the agency, whichever comes first. Consequently, no redetermination of TEA eligibility is required.

**Note:** When the child is no longer TEA eligible he may be eligible for SFHF. Eligibility for SFHF would be determined at the conclusion of TEA eligibility. Thus, eligibility for continuation of SFHF would be determined as stated above.

Continuation of IV-E eligibility depends upon continuation of need

and deprivation.

**NEED-** Once the child has been removed, need is predetermined based upon the income available to that child, unless the child was removed from a two-parent family and the original determination was around unemployment/underemployment issues. Therefore, need is not necessarily related to the income of the parents after the child enters care. The child's eligibility in reference to need is based upon whether or not the child has income in his own right, which could include SSA, support provided by the parents, etc. If the income available to the child does not exceed 185% of the Standard of Need for a family of one or if the income does not exceed 185% of the foster care rate, the child would remain eligible for IV-E foster care based upon need.

Deprivation- Deprivation refers to parental absence, incapacity, or unemployment at the time the child was removed. If the child was removed from a specified relative who is not the parent, deprivation will continue regardless of the parent's circumstances. Deprivation, when a child was removed from a specified relative other than a parent, is assumed but must be documented. If the child is removed from the home of the parent, then re-determination is based on the continuing review of the circumstances of the parents. When deprivation was based upon the parents' separation at the time of initial eligibility determination and the parents subsequently reunite, the child loses eligibility unless one of the other criteria for deprivation is found to exist.

Eligibility may also be regained if the parents subsequently separate again. Re-determination of deprivation is not required when parental rights have been terminated through court action, if the parent is deceased or is permanently disabled. If a minor parent's child comes into the agency's custody or placement responsibility and is placed separately from the parent, it is likely that deprivation is the result of the child's minor mother and father not living together. If the child's parents begin to live together, deprivation would no longer exist and at that point, the child is ineligible for IV-E, unless one of the other criteria for deprivation is found to exist.

## F. OTHER ISSUES AND CONSIDERATIONS

- **MEDICAID**

As long as the child remains eligible for IV-E foster care assistance and redeterminations are done in a timely manner, the child will remain categorically eligible for Medicaid. Redetermination of Medicaid eligibility for non-IV-E children must be done according to the Medicaid

regulations.

- **FREE FOR ADOPTION**

A child who is IV-E eligible should remain IV-E eligible when becoming legally free for adoption. Following the legal clearance no further redetermination of deprivation is required, although continued redeterminations of eligibility are still required every twelve months or when circumstances change, to insure the child continues to meet all other requirements.

**4. SPECIFIC REQUIREMENTS OF STATE AND FEDERAL REGULATIONS RELATED TO IV-E**

**A. CASE REVIEWS AND CASE PLANS IN IV-E**

In order for a child to remain eligible for Foster Care assistance, the following must occur for all types of payments, unless specifically noted otherwise.

**1. CASE PLANS**

The agency service record must contain a current written Family Services Agreement with all applicable components completed at the appropriate intervals. It must be jointly developed with the parents.

Family Service Agreements must be completed within 30 days of placement and reviewed and updated at least every six months until the child returns home or permanency is achieved, or until the agency is relieved of this requirement by the juvenile court.

The Family Services Agreement should include the reasonable efforts the agency has made either to reunify the child or to finalize another permanent plan. These efforts must be detailed and timely. For example, a statement that the agency's concurrent plan is "either reunification or TPR" is not correct. Termination of Parental Rights is not a plan; adoption or legal guardianship is a plan.

The Family Services Agreement must state explicitly that the plan is reunification with the parent, or concurrently, adoption (or legal guardianship, etc.) in the event that the parents fail to make enough progress within the specified time.

In order for a court to find that the agency has, indeed, made reasonable efforts to finalize a permanency plan, the agency

must document the specific activities that the agency *has taken* to finalize the plan; not the parents. The court is trying to determine what help the agency has provided to the parents to help them regain the child, or concurrently, what efforts *the agency has taken* to ensure permanence for the child. In detailing these efforts, of course, the agency will be reporting on the activities of the parent, but the focus for the court is on the agency's actions to help the parent and the child.

Inclusion of detailed reasonable efforts the agency has made helps in preparing court reports and in providing the court with the specific information it needs to make the proper findings.

## 2. CASE REVIEWS

In order for a child to remain eligible, the agency must hold and document regular case reviews on the Family Services Agreement Review form. The Permanency Planning Action Team should conduct the review within the first 60 days of placement, within the next 90 days and once every 6 months thereafter until the child exits foster care and custody is terminated.

**NOTE:** This provision is in effect even for those children over age 18, (even though IV-E is not the funding source) or emancipated, or in adoptive placements until the Decree of Adoption.

## 3. COURT REVIEWS

There must be a court review within 90 days of the date of disposition. The next court review must be held within 6 months thereafter. Court reviews should occur at least every 6 months when the agency retains custody of the child. The requirements for court reviews under VPAs must also be followed. Court reviews are not required for young adults participating in CARS agreements.

## 4. REASONABLE EFFORTS TO **MAKE AND FINALIZE A PERMANENCY PLAN**

A judicial determination regarding reasonable efforts to finalize a permanency plan **must** be made

**NCGS 7B-907** states that in any case where custody is removed from a parent, guardian, custodian, or caretaker, the judge shall conduct a review hearing designated as a permanency planning hearing within 12 months after the date of the initial order removing custody and the hearing may be combined, if appropriate, with a review hearing required by G.S. 7B-906.

The purpose of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time. Subsequent permanency planning hearings shall be held at least every six months thereafter, or earlier as set by the court, to review the progress made in finalizing the permanent plan for the juvenile, or if necessary to make a new permanent plan for the juvenile.

**From the Federal Child Welfare Policy Manual**

**QUESTION 8.3A.9A**

The statute requires that the judicial determination of reasonable efforts to finalize/achieve a permanency plan be obtained no later than 12 months from the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care.

Accordingly, States must use the date of the last judicial determination for a child to determine the date the next one is due. In no circumstance may the interval between these judicial determinations exceed 12 months. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within the time frame prescribed above, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made and remains ineligible until such a determination is made. Although the permanency hearing may serve as the mechanism for obtaining the judicial determination of reasonable efforts to finalize/achieve a permanency plan, there is no requirement that the judicial determination be made at a permanency hearing. The court may make such a judicial determination, based upon evidence presented to it by the State, without a formal hearing.

**Source:** 06/09/04

**Legal Reference:** Section 471(a)(15)(B) of the Social Security Act, 45 CFR 1355.20 and 1356.21(b)(2).

The court report should specify what efforts the agency has made to achieve permanence for the child. These efforts should be sufficiently detailed so that the court may reiterate verbatim the details in the court report as the courts own findings of fact.

It is important to stress that the court will be looking at what efforts the **agency has made**; not the parents or caretakers. If the court report has sufficient details, the court can make the proper findings.

If such a hearing resulting in a court order containing language regarding the permanent plan and reasonable efforts to achieve that plan does not occur within these time frames, the child is not IV-E reimbursable from the end of the month in which the finding was due until the first day of the month in which the hearing does take place. Note that the finding does not have to be in a Permanency Planning Hearing. It may be contained in any valid court order.

If the agency proceeds with a Termination of Parental Rights action, the hearing to determine whether there are grounds for such termination does not replace the regularly scheduled Permanency Planning hearing. It is, however, permissible for the hearing in which the TPR petition is heard to then proceed directly to the Permanency Planning hearing to sanction the change from reunification to adoption. Any time a child loses IV-E or TEA eligibility, he should be considered for eligibility for State Foster Home Funds and this change should be documented by completion of a DSS-5120A to reflect the new eligibility.

**Note:** Reimburse ability is a separate issue. If a child loses reimburse ability for IV-E or TEA, he may not have lost his eligibility. Reimburse ability is tied to the placement and the timing of permanency planning findings. Eligibility is tied to the initial placement authority, continuing family circumstances, and income available to the child.

### C. STATE FOSTER HOME FUNDS

State foster home funds are available for foster care payment assistance for those children who are not otherwise eligible for funding through IV-E or when TEA is not appropriate either because the child is not TEA eligible or because the agency elects not to use TEA to fund the foster care assistance payment. The agency must first establish that the child is not eligible for IV-E before the child is determined eligible for State Foster Home Funds.

The county DSS is required to have custody or placement responsibility through a judicial determination, Voluntary Placement Agreement, or a Relinquishment for Adoption. State Foster Home Funds may be available for reimbursement of foster care maintenance payments during the time the agency is determining eligibility for other funding sources for a child. Whenever SFHF's are used for foster care maintenance payments, administrative costs may be claimed from any federal source for which the child may be eligible. In most instances, funding for administrative costs will be chosen from among SSBG (program code X), TANF-transferred-to-SSBG (program code V), or TEA (program codes R or O), or any other applicable source. SFHF eligibility continues as long as case plans, administrative and court reviews are current, the child is in the agency's placement responsibility and the placement itself is licensed. SFHF eligibility continues as long as case plans, administrative and court reviews are current, the child is in the agency's placement responsibility and the child is in a licensed facility.

1. **PLACEMENT AUTHORITY**

A. **JUDICIAL AUTHORITY**

Judicial determination requirements are identical to those outlined for IV-E with one exception. Whereas a child can never be IV-E eligible when "contrary to the welfare/best interest" language is not included in the initial court order, subsequent orders that include the language will render the child eligible for State Foster Home Funds as long as all other judicial and SFHF eligibility requirements are met.

**Until that language appears in an order, the child is not SFHF eligible, and the entire cost of care is the responsibility of the county.**

B. **VOLUNTARY PLACEMENT AGREEMENT.**

The same provisions apply as in the IV-E eligibility discussion. In neither case does funding availability continue if placement exceeds 180 days, per Federal regulations, and the placement has not been reviewed by the court.

NC statutes require a court hearing by the 90th day and that a petition be filed and heard by the 180<sup>th</sup> day. These restrictions should not be construed to imply that a VPA should continue for these lengths of time. Rather, the length

of time for a VPA should be tailored to the needs of the child and family.

**C. VOLUNTARY PLACEMENT AGREEMENT /  
CONTRACTUAL AGREEMENT FOR CONTINUED  
RESIDENTIAL SERVICES (CARS) WITH YOUTH**

State Foster Home Funds (SFHF) may be available for youth emancipated or over age 18 who are not eligible for IV-E or TEA. Even if a youth is receiving IV-E or TEA foster care reimbursement, it must be discontinued at the end of the month of his 18<sup>th</sup> birthday, or upon emancipation. However he does become eligible for SFHF if he and the agency choose to enter into a Contractual Agreement for Young

Adults between the ages of 18 and 20 who aged out of foster care or who were discharged from agency custody between the ages of 16 and 21 for any reason, including emancipation, and who wish to re-enter DSS placement authority. The young adult may request placement under a CARS agreement. State Foster Home Funds are available to pay half of the standard board rate to a licensed foster care facility if all of the following conditions are met:

The county approves and enters into the agreement with the young adult, based equally on the county's willingness to partially support the cost of placement and the youth's demonstrated willingness to accept responsibility for the use of the placement;

The young adult is enrolled in or is accepted as a full-time student for enrollment for the next school term in a program that leads to a high school diploma or equivalent; a course of college study; or a course of vocational or technical training designed to achieve gainful employment;

The young adult is placed in a licensed foster care facility. If the young adult is involved in a residential educational (such as college) or vocational program, the young adult shall have his or her placement resource available for weekend visits and vacations.

A portion of the board payments may be used by the care provider to help the young adult with expenses associated with the educational/vocational program. That placement "slot" within the foster home would be assigned solely to the qualifying youth. Youth who participate in Teen Challenge, Job Corps, etc. qualify as "being a full time student in a

course of vocational or technical training” [NCGS 108A-48(b)]. The youth’s “residence” is the licensed or foster care facility in which he visits for weekends and vacations. The full board payment for the youth would be sent to the foster parent or residential facility that would use these funds to assist the youth with his financial needs in whatever educational or training program in which he is enrolled.

There are certain other requirements for youth who are in foster care under a Contractual Agreement for Continued Residential Services.

CARS agreements should be reviewed every six months or more often as needed to assure that the conditions of the agreement are being met and that any unanticipated problems are addressed. A suggested form is attached. While a formal Independent Living Assessment is not required for young adults participating in CARS agreements, such assessments may be useful to assure that the young adult is receiving the goods and services needed to help him prepare for self-sufficiency.

## 2. **OTHER CONDITIONS RELATED TO STATE FOSTER HOME FUND ELIGIBILITY**

**FAMILY SERVICES AGREEMENT**-For a child to be eligible to receive SFHF, there must be a Family Services Agreement for that child with all applicable components completed at the appropriate intervals.

**MEDICAID-ELIGIBILITY FOR MEDICAL ASSISTANCE (MA)** must be determined. SFHF children are neither automatically nor categorically eligible for Medicaid funds. (Undocumented alien children are specifically ineligible for MA on an on-going basis. They may be eligible in an acute medical emergency. Please refer these cases to the Medicaid section of your agency for specific eligibility determination).

**ADOPTION RELINQUISHMENT**-Children who enter agency custody by way of relinquishment of parental rights are eligible for SFHF.

**MINOR PARENTS**-The child of a non-IV-E or non-TEA eligible minor parent in foster care cannot have his/her needs included in the minor parent's SFHF payment **at this time**. Unless the child of a minor parent enters placement responsibility or custody, there is no funding available to pay for his/her placement. Payment for these children is contingent upon the minor parent signing a

Voluntary Placement Agreement or assignment of custody to the agency by a judicial determination. If the minor parent and child are separated at the point the agency is vested with placement authority, the child may be IV-E or TEA eligible (if the child meets eligibility requirements as outlined in the manual section

**UNDOCUMENTED ALIEN CHILD**-While a resident alien child is not eligible for foster care payments paid for through either IV-E or TEA, he/she is eligible for SFHF's, if all other SFHF requirements are met (e.g., court order language).

**CONCURRENT ELIGIBILITY**-A child may receive both SSI and SFHF.

**DELINQUENT/UNDISCIPLINED CHILDREN**-A child who enters the legal custody of a county Department of Social Services by way of a delinquent or undisciplined petition and who does not meet IV-E requirements, and/or TEA is not appropriate, is eligible for SFHF, if all other SFHF requirements are met (e.g., court order language).

### 3. **STATE SUPPLEMENT FOR CHILDREN EXPOSED TO HIV/AIDS**

The State also provides supplemental board payments for children in DSS foster homes or DSS-funded foster placements who are diagnosed as having been prenatally exposed to the Human Immunodeficiency Virus (HIV) or who have developed symptoms of HIV/AIDS. Counties may receive payments for eligible children retroactive to the effective date of the enabling legislation, July 1, 1994.

#### **A. PROVIDER QUALIFICATIONS**

Supplemental board payments for HIV+ children may be made to foster parents, group homes, or child caring institutions licensed by the North Carolina Division of Social Services.

#### **B. ELIGIBILITY**

- Children eligible for HIV supplemental board rates must be:
- In the custody and placement responsibility of a North Carolina County Department of Social Services;
- Placed in foster homes or facilities licensed by the Division of Social Services;

- Diagnosed by a licensed physician as meeting one of the following diagnostic criteria.

**C. DIAGNOSTIC CRITERIA AND RELATED DSS-5094 AND DSS-5095 CODES**

For children under the age of 13, Center for Disease Control case definitions for pediatric AIDS will be used. HIV infection is defined by one or more of the following:

- the identification of virus in blood or tissues;
- the presence of HIV antibody (positive screening test plus confirmatory test) regardless of whether immunologic abnormalities or signs or symptoms are present; or
- the confirmation that the child's symptoms meet the CDC case definition for pediatric AIDS. The categories listed below shall be used to determine board payments for foster children:

**CDC CATEGORIES**

**E: PERINATALLY EXPOSED**

Prenatally exposed infants' age 0-24 months who cannot be classified as definitely infected, but who have antibody to HIV, indicating exposure to a mother who is infected.

**N: ASYMPTOMATIC INFECTION**

Infants, children, and youth who meet one of the CDC definitions for infection, but who have had no previous signs or symptoms that would have led to classification in Class P2.

Children may be further sub classified on the basis of immunologic testing: A) normal immune function; B) abnormal immune function; or C) not tested.

**A: MILD INFECTION**

Infants, children, and youth meeting one or more of the above definitions and having signs and symptoms of mild infection.

**B: MODERATE SIGNS OF INFECTION**

Infants, children, or youth meeting one or more of the above definitions and having signs of moderate infection.

**C: SEVERE SIGNS OF INFECTION**

Infants, children, or youth meeting one of the above definitions and having signs of severe infection.

**T: TERMINALLY ILL**

Children ages 0-21 who have AIDS with life expectancy of six months or less.

**D. REIMBURSEMENT RATES**

Reimbursement rates are based on the age of the child and the status of the disease.

For children 0-18 months in E status, the supplemental board rate is **\$800 per month**.

For children ages 0-21 in N status, the rate is **\$1000 per month**.

For children ages 0-21 in A, B, or C status, the rate is **\$1200 per month**.

For HIV infected children ages 0-21 with a resulting diagnosed life expectancy of six months or less, the supplemental board rate is **\$1600 per month**.

**E. REIMBURSEMENT PROCEDURES**

Field 16 of the DSS 5094 must be completed with one of the one-digit alpha codes listed above in order to draw down supplemental state funds. Initial and retroactive payments require verification of the child's medical status by a licensed physician, as well as verification of the date the child was placed in an eligible foster care placement. Following initial approval, counties must also submit verification of the child's medical status at six month intervals to Family Support and Child Welfare Services Section. Copies of these forms are included in the Appendix.

Reimbursement of supplemental foster care payments for children exposed to HIV/AIDS is

currently a manual process completed by Children's Services. Claims for reimbursement for children eligible to receive these funds must be submitted each month to the Children's Services Section on the required Request for Reimbursement form (DSS 5758) prior to the 20th day of each month.

A copy of form DSS 5758 is included in the Appendix. Reimbursements are made based on the submission of the required information and verification of the child's status on the DSS 5094 and the license status of the family foster home or child care facility. If the required information is not on the child's DSS 5094 or the child is not placed in a licensed foster care placement, reimbursement cannot be made.

### **III. FOSTER CARE FUNDING FOR ADMINISTRATIVE COSTS**

#### **A. TEA**

TEA funds administrative costs when the child is eligible for TEA foster care maintenance payments. Some costs which IV-E cannot pay for may be funded with TEA if the child is also eligible for TEA. An example:

The plan for a child who is receiving IV-E foster care maintenance payments is to be placed with his aunt.

The agency wants to prepare both the child and the aunt for some of the difficulties that both may face when the child begins living with the aunt. Some of the issues that need to be discussed are the child's behavior and what the behavior may really mean; helping the aunt to understand her own responses to the behavior in terms of helping the child to understand what his behavior is really meaning.

Obviously, this will take some length of time, but the agency understands that this must be done if the placement is to succeed. IV-E cannot fund such counseling, but TEA may be able to pay for the time the social worker spends with the child and the aunt. Therefore, the social worker would document on the day sheet service code 390-Other Child Welfare Services, and program code R (or 0).

#### **B. MOE-MAINTENANCE-OF-EFFORT FUNDS FOR CHILDREN IN FOSTER CARE-(PROGRAM CODE 9)**

MOE funds may never be used for foster care maintenance payments for any child. MOE may be used to fund administrative costs associated with a child who is in foster care or who has been placed with a relative or who is

in a licensed relative foster home.

TANF regulations restrict the use of MOE funds to one of the four distinct TANF purposes:

In general, the purpose of this part is to increase the flexibility of States in operating a program designed to:

1. provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
2. end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
3. prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
4. encourage the formation and maintenance of two-parent families. A child may be eligible for MOE funded foster care services even if the child is presently in an unrelated foster home. The purpose of foster care is to change the conditions that led to his having to leave his own home so that he can return to that home or the home of a relative.

Consequently, use of MOE funded services for a child in foster care must be used for children whose permanency plan is reunification with a parent or custody/guardianship to a relative.

If a child is in the legal custody and placement responsibility of a county Department of Social Services and is placed with a relative, the administrative costs involved in maintaining the placement may be reimbursed through MOE.

### **MOE ELIGIBILITY**

Use of MOE funds for administrative costs for children who are in foster care requires a "means test". For example, a child who has entered foster care who has resources in his own right cannot have resources totaling more than 200% of the current FPL for a family of one. Federal regulations require MOE funds to be used for children or families that meet the following eligibility factors:

1. Family income (or if child is in agency legal custody and placed with a relative or is in a relative licensed foster home, or an unrelated family foster home, the child is considered a family of one) cannot exceed 200% of the current FPL;
2. Child must be a US citizen or meet qualified alien requirements;
3. Child must be in the home (if child is in agency legal custody and is placed in an unrelated licensed foster home, a relative's home or in

- a licensed relative foster home, is considered a family of one); and
4. Services provided meet TANF purpose #1.

### **FAMILY'S/CHILD'S INCOME**

When a child is living in the home of a specified relative other than his parent(s), the relative's income is not considered in determining the child's eligibility. A parent's income from SSI is also not counted. The child's own income cannot exceed 200% of the current FPL. Federal Poverty Guidelines can be found at <http://aspe.hhs.gov/poverty/index.shtml>. The income must be documented in the record. Social workers may use the MOE-Maintenance-of-Effort Verification form, but written verification from the parent of the income is not necessary.

### **SPECIFIED RELATIVE**

The child must be living with a specified relative or parent. In addition to the parent, a specified relative is a blood or half blood relative or adoptive relative limited to brother, sister, grandparent, great-grandparent, great-great-grandparent, uncle or aunt, great-uncle or aunt, great-great-uncle or aunt, nephew, niece, first cousin, stepbrother, stepsister; and spouses of anyone listed above even after the marriage has been terminated by death or divorce.

### **US CITIZENSHIP**

Certain non-citizens can be eligible for MOE-funded services. Families who receive Work First payments, Medicaid or Health Choice, or Food Stamps meet the citizenship requirements for MOE. If agency records are inconclusive and the worker has questions about the child's citizenship status, it is recommended that Work First staff be consulted to help clarify the child's citizenship status.

### **TANF PURPOSE**

The service to be funded by MOE must meet the following TANF purpose:

**To provide assistance to needy families so that children may be cared for in their own homes or the home of a relative.** Please note that social workers must document how provision of the MOE funded service meets this TANF purpose. For example only, the social worker might document the following:

"Johnny is in our legal custody because he could not be cared for safely in his own home. We are working toward reunification with his mother so that he can return to her. If this is not possible, we will work toward placement with his aunt, (grandmother, brother, etc.)."

**C. TANF-TRANSFERRED-TO-SSBG-(PROGRAM CODE "V")**

Title IV-A (TANF) allowed a portion of the TANF Block Grant to be diverted to the Social Services Block Grant (SSBG) because funding for SSBG had been cut in recent years. North Carolina refers to the fund subsequently used for child welfare services paid for through this allowance as TANF-Transferred-to-SSBG. The program code for these funds is "V". A child is eligible for "V" funding if the family income is at or below 200% of the current Federal Poverty Level (FPL) (Federal Poverty Guidelines can be found at <http://aspe.hhs.gov/poverty/index.shtml>) and meets one of the five broad Social Services Block Grant goals below:

- Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;
- Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitation or reuniting families;
- Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and
- Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

**D. IV-E ADMINISTRATIVE COSTS**

Title IV-E funds may also be used for administrative time; the time that a social worker spends implementing foster care. IV-E funds only case management activities. The DSS 4263 (day sheet) is the mechanism used to obtain reimbursement for these administration costs. The rate of reimbursement for IV-E administrative funds is 50% federal funds, 25% State funds and 25% county funds. In order to claim IV-E reimbursement for administrative costs related to foster care, the child must both be IV-E eligible and in a reimbursable placement, with two exceptions. They are:

1. IV-E administrative costs may be claimed during the time a relative is being license, for a maximum of 12 months or for the average time it takes to license a relative placement, whichever is less, and
2. IV-E administrative costs may be claimed for one month for a child moving from an ineligible placement (such as a psychiatric hospital) to an eligible placement.

There are **two** situations where children who have previously been in foster care may be eligible for IV-E Administrative cost reimbursement as “candidates”. This would apply to children in **aftercare** and on **trial home visits**.

### **AFTERCARE**

IV-E administrative funds may be used to manage service provision to a child who has returned home even if the agency no longer has custody of the child (after-care services). While the services themselves cannot be paid for, the case management activity can be reimbursed as an administrative cost. Once a case is closed, a new determination, based on the current circumstances, would have to be completed should the child come back into the agency's responsibility.

### **FROM THE FEDERAL CHILD WELFARE POLICY MANUAL: 8.1D TITLE IV-E, ADMINISTRATIVE FUNCTIONS/COSTS, CANDIDATES**

**QUESTION 3:** Can children in aftercare be considered candidates for foster care?

**ANSWER:** Yes. Departmental Appeals Board Decision No. 844 permits States to consider a child who is receiving aftercare services to be a candidate for foster care. In such circumstances, services or supports provided to the newly reunited family can be considered the State agency's reasonable efforts to prevent the child's removal from the home and re-entry into foster care. The State, therefore, may claim Federal reimbursement for the allowable title IV-E administrative costs associated therewith. However, in order to consider a child who is newly reunited with his/her family a candidate for foster care, the State must document the child's candidacy pursuant to one of the approved methods. The State may, for example, develop a case plan that demonstrates its intent to remove the child from home and return him/her to foster care if the aftercare services prove unsuccessful.

**Source:** ACYF-CB-PA-01-02 (7/3/01)ACYF-CB-PA-01-02 (7/3/01)

**Reference:** Departmental Appeals Board Decision No. 844

### **TRIAL HOME VISIT**

Agencies may claim federal IV-E administrative costs for an IV-E eligible child who is placed on a trial home visit with a specified relative for less than six months, or for longer than six months if a court has ordered a longer period. If the trial home visit extends beyond the six month period, or beyond the court ordered period of time, agencies may not claim IV-E administrative costs for the child.

### **FROM THE FEDERAL CHILD WELFARE POLICY MANUAL 8.1D TITLE IV-E, ADMINISTRATIVE FUNCTIONS/COSTS, CANDIDATES**

**QUESTION 3:** Can children on trial home visits be considered candidates for foster care?

**ANSWER:** Yes. A State often will provide supportive services to a child and family during the course of a trial home visit to facilitate the success of such visit. We believe that the services and supports provided to a child on a trial home visit can be considered reasonable efforts to prevent the child's removal from the home and return to foster care. The State, therefore, may claim Federal reimbursement for the allowable title IV-E administrative costs associated therewith. However, a child may not be simultaneously both in foster care and a candidate for foster care.

In addition, the State must document the child's candidacy for foster care pursuant to one of the approved methods. For example, the State may document in the child's case plan its intent for the child to return to foster care if the services provided during the course of the trial home visit prove unsuccessful.

**Source:** ACYF-CB-PA-01-02 (7/3/01)ACYF-CB-PA-01-02 (7/3/01)

**Reference:** 45 CFR 1356. 21(e) and 1356.60

If the adoptive placement of a child disrupts **prior** to the issuance of the Final Decree of Adoption, the child continues his IV-E eligibility if he was IV-E eligible at the time of the adoptive placement. If the adoptive placement dissolves **after** the Final Decree of Adoption is issued, the circumstances of the adoptive parents at the time that the child enters the agency's legal custody determines the child's eligibility category. If, however, the child is then placed in another adoptive home and the Final Decree of Adoption is issued, his IV-E status resumes for adoption assistance purposes

## **E. TITLE XIX-AT-RISK CASE MANAGEMENT SERVICES**

### **1. CHILD WELFARE RESTRICTIONS ON ARCMS**

In the report of a federal review of At Risk Case Management service provision in Oklahoma, the Centers for Medicaid and Medicare Services stated the following:

Case management services are integral and inseparable components of the direct services and administrative functions of the Foster Care and Child Welfare programs and may not be claimed under any other Federal program.

The interpretation relates primarily to IV-E children, but the difficulty of teasing out the differences between ARCMS and Foster Care Case Management Services prohibits the use of ARCMS when a child is in the legal custody of a county Department of Social Services. **Therefore, At Risk Case Management Services cannot be used for any child in the legal custody or placement responsibility of a county Department of Social Services.**

**F. LINKS-CHAFEE INDEPENDENCE ACT**

**1. ELIGIBILITY FOR LINKS SERVICES**

In North Carolina, all youth who are now 13 or older and are not yet 21 and who are or were in DSS foster care after the age of 13 are eligible for LINKS services, with two exceptions. Otherwise eligible youth are not eligible for LINKS funds if:

- they have personal reserves of more than \$10,000, or
- they are undocumented or illegal aliens.

For the purposes of this policy, being in “foster care” means that the:

Child was removed from the home and is receiving 24 hour substitute care, and the DSS has placement and care responsibility. Non-paid relative care is included in this definition if the child is not living in the removal home. Youth who, as teenagers, have been discharged from foster care and were reunified, placed with relatives, adopted, married, or emancipated remain eligible for LINKS services until their 21<sup>st</sup> birthday.

**Note:** Detention facilities, forestry camps, training schools, and any other facility operated primarily for the detention of children who have been determined to be delinquent are not considered foster care placements.

Youth involvement in case planning must be documented in the case record and reflected on the case plan. Youth and young adults who refuse services, who refuse to be active participants in designing the case plan, and/or who refuse to do their part in resolving problems cannot be provided LINKS services or resources.

Eligibility for LINKS services is intentionally broad, in order to permit agencies to serve youth and young adults who need the services and who are willing to do their part in resolving problems.

**a. REQUIRED SERVICES:**

Counties **must** offer and provide appropriate services to youth and young adults ages 16-21 that are in DSS custody and to young adults who aged out of agency custody at age 18 and who are not yet 21. Outreach efforts are **required** for young adults who aged out of care and who are not yet 21 to determine their current situations, their interest in continued services, and their need for resources through the LINKS Special Funds program.

Eligible teens and young adults in foster care or on CARS/VPA agreements ages 16-21 **must** be offered LINKS services.

Young adults who “aged out” of foster care (were in foster care on their eighteenth birthday) **must** be offered any needed assistance for which they are eligible.

**b. OPTIONAL SERVICES**

Each county agency may determine which (if any) optional services will be offered in addition to those mandated by Federal statute.

Services are **strongly recommended** for youth in agency custody ages 13-15 **and** for young adults between the ages of 18 and 21 who did not age out of custody, but were in custody as teens and are now requesting services.

Services are **recommended** for youth who were in custody as teens, have been discharged, and who are now between the ages of 13 and 18.

**c. OTHER PROGRAM ELEMENTS OF NC LINKS**

- The State is required by law to make LINKS benefits and services available to American Indian children in the state on the same basis as other children. North Carolina interprets this responsibility to include all Native American children, regardless of Federal recognition status.
- Illegal and Undocumented Alien Youth

No federal funds can be applied to assistance or services for illegal and undocumented aliens. If an otherwise eligible youth is disqualified from LINKS because of residency status, the agency can serve him or her so long as no Federal funds are used to provide those services. Once legal residency is established, LINKS funds may be used to provide services.

Youth with personal reserves of \$10,000 or more.

Youth are not eligible for LINKS funds if they have personal reserves of more than \$10,000. Services may be provided if no additional LINKS funds are used to provide the service and if no eligible youth is denied services because of participation by the ineligible youth

2. **ALLOWABLE EXPENDITURES OF LINKS FUNDS USE OF COUNTY PROGRAM ALLOCATION FUNDS**

• **RESOURCE DEVELOPMENT**

Counties may use LINKS program allocations to purchase or rent program materials, supplies and equipment for the establishment, continuation, implementation or revision of the county LINKS program, and/or for evaluation of the effectiveness of the program. Counties must follow cost allocation or direct charge procedures to purchase equipment for the LINKS program such as computers, printers, scanners, cameras, copiers, televisions, DVDs or VCRs. Direct charges to the LINKS program allocation are only allowed if the equipment purchase is designated for the sole use of the LINKS program. For information on direct charge, expensing, and cost allocation procedures, please refer to the April 28, 2003 Dear County Director Letter from Pheon Beal, Division Director.

Go to the following link for instructions and the form.  
[http://info.dhhs.state.nc.us/olm/manuals/oc/fsc/man/FSCs3-01.htm#P1518\\_51863](http://info.dhhs.state.nc.us/olm/manuals/oc/fsc/man/FSCs3-01.htm#P1518_51863)

The explanation, with the original signature of the county Director and the form, should be sent to:

Mr. Jack W. Chappell  
Department of Health and Human Services  
2019 Mail Service Center  
Raleigh, North Carolina 27699-2019

A copy of these documents should be sent to the DSS Budget Office at 2417 Mail Service Center, Raleigh N.C. 27699-2417.

• **YOUTH INCENTIVES**

Funds may be used to provide reasonable incentives (cash, gift certificates, food, etc.) to youth to encourage program participation or goal achievement. Incentives are offered to encourage a youth to reach toward a goal, as a part of the formal or informal service agreement with the youth.

The effectiveness of the incentive should be determined periodically to ensure its continued use as a motivator. For example, a financial incentive may be offered to a youth to

pull up his grades from failing to passing, but if the youth continues to fail, other strategies should be tried. Financial incentives should be used only as a short-term motivational tool, since other motivators should become present in the natural course of events. For example, if a youth receives a cash or other similar incentive to handle his behavior so that he maintains his placement for a significant period of time, he should begin to experience other benefits in the course of his efforts: improved relationships with his caregivers and friends, increased opportunities to participate in activities of interest, stability in his school setting, etc.

- **GOODS OR SERVICES FOR INDIVIDUAL YOUTH/YOUNG ADULTS**

A county may use some or all of their program allocation to pay for goods or services on behalf of one or more individual youth or young adults, so long as doing so does not undercut funding needed by other youth/young adults in the mandatory services groups. Note: LINKS Special Funds are also available to reimburse counties for expenditures made on behalf of pre-registered youth and young adults. Instructions for accessing LINKS Special Funds are found later in this section.

Note: Program allocations may not ever be used for rent, rent deposits, or other dwelling costs for any youth or young adult. Only Transitional Housing Funds, available through the LINKS Special Funds for young adults who aged out of foster care, may be used for rent, rent deposits, down payments on housing, or room and board arrangements.

- **PROGRAM OPERATIONS**

A county may use a portion of its program allocations for staff positions, for contracted services, or for time spent on the planning and delivery of services.

### **3 EXPENDITURES NOT ALLOWED**

Any expenditure that does not meet the principles for the use of LINKS funds is not allowed.

- LINKS funds may not be used to take the place of (supplant) Federal or state funds that are otherwise available for the

same purposes. Federally funded day care, subsidized housing, foster care administration and training, adoption assistance, TANF, Child Protective Services, etc. are federally funded programs that may also touch LINKS-eligible youth and young adults.

- LINKS funds may not be used to match other Federal funds. Extreme caution should be exercised when using LINKS funds to assure that sup plantation does not occur. If a worker is considering using LINKS funds for an expense that would have been paid from other sources were these funds not available, sup plantation should be ruled out prior to proceeding.

#### 4. LINKS SPECIAL FUNDS:

LINKS Special Funds are reimbursed to the county for expenditures made on behalf of eligible foster teens and young adults up to age 21 who are or were in foster care as teens. LINKS Special Funds are available to promptly reimburse counties for additional expenditures on behalf of eligible youth and young adults. These funds are in addition to the county LINKS. Eligibility can be cumulative: one young adult may be eligible for **both** categories of funding, for a total of as much as \$3250 per year.

Once eligibility is determined, the county may pre-authorize all or some of the youth as they prefer. Eligibility, once established, remains in effect until the youth achieves his or her 21<sup>st</sup> birthday, unless the county discontinues the eligibility status. The amount renews annually on October 1 to the maximum available amount. Unspent funds from the prior Federal fiscal year do not carry over to the ensuing Federal fiscal year.

**Note:** Sales tax paid by the county DSS should not be included in the request for reimbursement.

#### PURPOSE OF SPECIAL FUNDS

The purpose of LINKS Special Funds, as with all LINKS funds, is to help youth successfully transition to self-sufficiency by reducing barriers to achieving that goal. LINKS Special Funds were created to help to assure that every eligible youth or young adult will have timely, equal access to financial resources regardless of county of residence. There are two categories of Special Funds:

- **Housing Funds** are **only** available to young adults who aged out of foster care at 18 but are not yet 21 years of age.

Up to \$1000 per individual per year is available to help with transitional housing costs, which is defined as rent, rent deposits, or room and board arrangements that include meals as a part of a rental agreement. Utility costs are not included in this fund, but those types of costs may be paid from LINKS Transitional Funds. Funding is intended to help youth get moved into a permanent home, neither to prolong unnecessary dependency nor to pay for continued residential treatment. An eligible young adult who is participating in a CARS Arrangement may use these funds to transition to their independent living arrangement.

**A youth “ages out” of foster care if he/she is in foster care on his or her 18th birthday. To be eligible, the young adult must have been in DSS custody on his or her 18th birthday and must have been living in a licensed foster care facility or with a relative that was not the removal home or in other court-approved placement. Youth who are in secure facilities specifically designed for correctional purposes on their 18th birthdays are specifically excluded from receiving transitional housing assistance but are eligible for other LINKS funds and services.**

Youth who are under the age of 18 and young adults who did not age out of foster care are not eligible for Transitional Housing Funds, and no other LINKS funds can be used to procure housing for them. The Chafee Act is very specific on this point, and until the law is changed, there is no LINKS money to pay for rent, rent deposits, or down payments on dwellings for youth who did not age out of care.

- **LINKS Transitional Funds (up to \$2250)** are available to help any youth or young adult ages 13 through 20 who, because of life circumstances, behaviors, or lack of needed resources is evaluated by the county DSS to be at risk of not making a successful transition to self-sufficiency unless appropriate intervention is initiated. LINKS Transitional Funds may not be used for rent, rent deposits, room and board, or down payments on housing.

LINKS Special Funds may only be used to assist the youth or young adult to achieve one or more of the seven following outcomes: 1) economic self-sufficiency; 2) safe and stable housing; 3) academic or vocational achievement; 4) connections to a personal support network; 5) postponed parenthood; 6) avoidance of high risk behaviors and/or 7)

access to needed health care not covered by Medicaid or public health insurance.

## PROCEDURE TO ACCESS LINKS SPECIAL FUNDS

**Note:** LINKS Special Funds are a limited resource, not a right. Counties will need to be careful to use only what is needed in order to assure that the funds last through the fiscal year. Once the Special Funds are expended, counties cannot be reimbursed for their expenditures. County LINKS Staff will be notified if the funds are being exhausted ahead of schedule.

In order to qualify for reimbursement from LINKS Special funds, a youth or young adult must be at least 13 years of age and must be or have been in foster care as a teenager. Eligibility for LINKS Special Funds and services ends on the young adult's 21st birthday. Youth and young adults 13-21 who have been discharged as teens, were adopted, have moved out of state, have been emancipated, or have married remain eligible for these resources if they are needed to address barriers to self-sufficiency. The custodial County Department of Social Services determines eligibility for the various funding sources and documents the basis for that eligibility in the case record.

Receipts or other proofs of purchase are maintained at the county level. The county then forwards information on the form "Authorization for Access to LINKS Special Funds" establishing eligibility to the NC LINKS Coordinator, either by FAX to (919) 715-0766 or by mail to 325 North Salisbury Street, MSC 2409, Raleigh, N.C. 27699-2409. One or more youth may be registered on a single form indicating eligibility for one or more of the funds by checking the appropriate boxes. The information is then entered into a data base at the office of the State LINKS Coordinator.

When the county establishes the need for access to the Special Funds, the county advances funds for the expenditure and then requests reimbursement directly through the LINKS Coordinator, using the "Request for Reimbursement" form. The request specifies the types and amount of funds that should be charged for each youth/young adult, up to the maximum amount available, along with a brief explanation of the purpose of the expenditure. In addition, the county staff must indicate which of the seven outcomes will be furthered by the use of the expenditures. For example, if the expenditure is for tutoring, the staff would write "tutoring-3" in the purpose box to indicate that the expenditure is intended to help the youth's educational preparation.

If the expenditure was to help an overweight youth by purchasing a gym membership, the staff would write “gym membership-7, 5” to indicate that funds are being used to promote preventive health practices and avoidance of high risk behaviors. Paying for work clothes furthers the goal of 1, economic self-sufficiency. Expenditures that do not further the accomplishment of one or more of the seven outcomes will not be approved. Case documentation should reflect the purpose of the expenditure and its relationship to the desired outcomes.

The county LINKS coordinator or designee is responsible for tracking expenditures to assure that the county does not request more funds than are available for the individual youth. The NC LINKS Coordinator checks the data base to assure that eligibility has been established and spot checks to assure that youth have not used more than the allotted maximum. The State Coordinator then forwards all requests to the Controller's office on a monthly basis on the 15th of the month. Counties are reimbursed by Electronic Funds Transfer (EFT) the first week of the following month. In order to assure timely reimbursement, counties are asked to submit their requests to the LINKS Coordinator by the 14th of the month. Requests for reimbursement should be faxed to (919) 715-0766, to the attention of the state LINKS Coordinator.

If a county is serving a youth or young adult whose eligibility is based on their history with another North Carolina county DSS, the county that had custody and has validating case documentation must verify eligibility for LINKS special Funds. The Division will reimburse either county for its allowable expenditures on behalf of the eligible youth or young adult, based on arrangements made by the two counties.

Youth ages 13 to 18 that are placed in North Carolina from other states and who request LINKS services are not eligible for LINKS Special Funds but are eligible for LINKS services.

The sending state is required to develop the Independent Living component of the plan and should pay for additional costs for serving the youth. Young adults who aged out of custody of another state and who have moved to North Carolina must be provided services by the county in which they now reside. The home state's Independent Living policy will determine whether or not that state will assist with the costs of those services.

If a young adult who aged out of foster care from another state is seeking Independent Living services, contact the NC LINKS Coordinator to determine how services will be funded. Young adults who were placed as minors in North Carolina under the Interstate Compact, who aged out of foster care, and are remaining in North

Carolina qualify for all LINKS benefits available to any North Carolina resident.

### **FORMS**

Forms used to register youth and young adults for Special Funds, and to request reimbursement are found in Appendix I.

The agency does not request reimbursement for sales tax that it pays. The agency should maintain receipts in the case record. It is not necessary to submit receipts with the request for reimbursement except as necessary to verify that expenditures were made prior to a young adult's 21st birthday or after their 18th birthday, if the funding source is dependent on age.

### **EDUCATION TRAINING VOUCHERS**

Legislation authorizing Education Training Vouchers was a separate section of the Chafee Act, authorized effective October of 2003. Use of these funds has no impact on LINKS county allocations or LINKS Special Funds except that young adults receiving ETV's may not access other Chafee Funds for expenses covered by the ETV, even after the \$5000 limit is exhausted.

### **QUALIFYING SCHOOLS**

The term "institution of higher education" is defined in Sections 101 and 102 of the Higher Education Act (HEA) of 1965, as amended. The U.S. Department of Education, Office of Postsecondary Education, can help States determine which institutions meet the law's criteria. In general, the term includes three different types of institutions: public and nonprofit institutions of higher education; proprietary institutions of higher education; and postsecondary vocational institutions.

A public or nonprofit institution of higher education must meet the following criteria (section 101(a) and (b) of HEA):

- a. admits as regular students only persons with a high school diploma or General Equivalency Degree (GED), OR students above the age of compulsory school attendance in the State where the institution is located;
- b. is authorized by the State to provide postsecondary education;
- c. provides an educational program for which the institution

awards a bachelor's degree or at least a two-year program (e.g., an associate's degree) that is acceptable for full credit toward such a degree OR provides at least a one-year training program to prepare students for gainful employment in a recognized occupation; and

- d. is accredited by a nationally recognized accrediting agency or association, recognized by the Department of Education, or has been granted pre-accreditation status by the agency or association, and the Secretary has determined that there is a satisfactory assurance that the institution will meet the accreditation standards of the agency or association within a reasonable time.

A proprietary (for-profit) institution of higher education must provide a training program to prepare students for gainful employment in a recognized occupation and meet the same criteria as described in (1) and (2) above for public or nonprofit schools. In addition, the institution must: be accredited by an agency or association recognized by the Department of Education; be in existence for at least two years; and, have at least 10 percent of its funding come from sources other than title IV of HEA (section 102(a)(1)(A) and 102(b) of HEA).

A postsecondary vocational institution must be a public or nonprofit school in existence for at least two years, which provides a training program to prepare students for gainful employment in a recognized occupation. The school must also meet the criteria described in (1), (2) and (4) above (section 102(a)(1)(B)) and 102(c) of HEA).

Certain institutions may not be considered an "institution of higher education" without obtaining special Secretarial approval if they have a high percentage of distance learning classes or students, incarcerated students and students without a high school degree, or have previously filed for bankruptcy or have been convicted of fraud using HEA funds (section 102(a)(3) and (a)(4) of HEA). Schools outside of the United States cannot be considered institutions of higher education for the purposes of the Educational and Training Voucher program (section 102(a)(1)(C) of HEA).

#### ELIGIBILITY OF STUDENTS

- The **student** must be eligible for the NC LINKS program.
- **Students** younger than 18 may be approved for ETV if they were in foster care after their 17th birthday and have finished high school or their GED and/or have been accepted into a qualifying college or vocational training program.

- A **student** adopted from foster care after his/her 16th birthday (date of finalization) is also eligible for ETV.
- Adult **students** who are attending GED/Adult High School at the same time that they are participating in postsecondary classes may qualify for an ETV for the costs of the postsecondary classes if the postsecondary school qualifies.
- Eligibility can continue until age 23 for students who were receiving vouchers on 21st birthday if they are making satisfactory progress toward completion of their certificate or degree.

### ELIGIBLE COSTS

The amount of the ETV grant is based on the Cost of Attendance, which is the total amount it will cost a student to go to school, usually expressed as a yearly figure. Includes:

- Tuition, fees and other equipment or materials required of all students in the same course of study;
- Books, supplies and an allowance for transportation costs and miscellaneous personal expenses, including computers;
- Room and board (which may vary depending on whether the student lives at home, in student-housing or an apartment);
- Child care expenses for a student who is a parent;
- Accommodations related to the student's disability, such as a personal assistant or specialized equipment that is not paid for by another source; ·
- Expenses related to the youth's work experience in a cooperative education program; and
- Student loan fees or insurance premiums on the student loan.

The student's cost of attendance is determined and evaluated with their existing Federal financial awards in order to determine how much money they can get. A student may receive both the Pell Grant and the ETV, if, when combined, are equal to or less than the cost of attendance.

**Note: A student is not required to be participating in a CARS/VPA to qualify for assistance through the ETV.**

### PROCEDURES:

**STUDENT APPLICATION:** The student applies on line over the internet. The web address is [www.statevoucher.org](http://www.statevoucher.org). Once into the web site, the student should click on the North Carolina state outline to get to the home page and the application form. The student is

required to fill out the application, to submit a brief essay about their future plans, and to send a copy of their financial award letter to the contracting agency, Orphan Foundation of America (OFA). The application requires a budget, contact information for the DSS and information about the student's interests. This web site has a number of links to other valuable information that can be accessed from the site. Information on other scholarships, study habits, time management, budgeting, and supports for former foster youth, etc. is available.

**Note: the college student will need his or her own email account while in college, since contact from the ETV administrator and volunteer mentors will be primarily over the internet. If necessary LINKS Special Funds can be used to help purchase basic internet services. Free email accounts are available through several vendors.**

**REFERRAL FROM AGENCY:** The county refers their eligible young adults using the state voucher web site. The referral is completed by clicking on the Social Worker Student Referral form (left column) The user ID is nc- and the referring county's name (e.g. nc-Dare); the password is a unique 4 digit number, available from either OFA or the state LINKS coordinator. The referral is the agency's certification that the student meets eligibility criteria. This referral also prompts contact from OFA to the student. Agency codes should never be given to unauthorized users, including students. The data base has been constructed to provide access to the authorized county worker regarding the application status, funds distributed, and frequency of contact between the ETV administrator and the student.

It is important that social workers in foster care and adoptions be aware of this resource and be assisted to complete these referrals and to use the database for case management purposes.

**ADMINISTRATION:** Currently, all North Carolina ETV vouchers are being administered by Orphan Foundation of America. The Foundation will send checks directly to third party providers or, in some circumstances, directly to the youth for approved budgeted expenses. If the DSS incurs ETV expenses prior to the student's approval for a training voucher, the student should be instructed to include that amount in their budget and to request reimbursement from OFA to the DSS.

#### IV. FOSTER CARE REIMBURSEMENT BASICS #1

##### A. OPTIMIZATION

For reimbursement of foster care costs above the Standard Board Rate, county Departments of Social Services which incur these costs may claim reimbursement on behalf of eligible IV-E or TEA children depending on several factors.

These factors include:

1. the amount paid by the county above the SBR **and**
2. the facility or child-placing agency having a Facility Rate established by the Division of Social Services, **or**
3. the child is placed in a family foster home, which is under the auspices of a county Department of Social Services.

The Child Placement and Payment System is programmed to ensure that federal funds used to reimburse county Departments of Social Services for IV-E or TEA eligible children do not exceed the FFP of an agency's Facility (cost of care) Rate. Counties paying foster care costs higher than the Standard Board Rate receive monthly Payment Reports (PQA-022) indicating, by child, the amount of federal funds which are reimbursed. State funding is not available to County Departments of Social Services for reimbursement of foster care costs above the Standard Board Rate. County Departments of Social Services, other local funding agencies or the service providers are responsible for assuming the non-federal share of costs incurred that are greater than the Standard Board Rate.

##### B. STATE FOSTER HOME FUNDS/STATE FOSTER CARE BENEFITS PROGRAM STATE FUNDS PROGRAM

The State Funds Program was originally established as a Grant-in-Aid to Private Child Caring Agencies to supplement a portion of the costs for non-IV-E eligible children placed with member agencies. Agencies become members of this program only through state legislative action, which has limited the number of non-IV-E or TEA children who benefit from this source of funding. State Funds members must contract with the Division of Social Services in order to receive reimbursements directly from the Division of Social Services. The amount of reimbursement received by a member agency is based on an agency's Facility (cost of care) Rate less any monies paid by a county Department of Social Services on behalf of an eligible child. The amount of reimbursement to member agencies varies according to the amount of funds available and the number of claims made each month. Current funding levels allow reimbursements to the member agencies directly from the Division of Social Services up to 63% of the

difference between the Facility Rate and the amount that is paid by a county Department of Social Services. The Division and the Association for Child Caring Agencies are currently studying alternate methods of funding and as soon as these methods are finalized, they will be included in this manual. In the meantime, county Departments of Social Services should proceed according to existing policy.

County Departments of Social Services may refer to the annual Facility Rate Dear County Director Letter for a listing of the member agencies. Member agencies are indicated with an asterisk (\*).

### **C. VENDOR PAYMENTS**

Vendor payments for children in licensed foster care placements are derived from Social Services Block Grant monies for services provided to eligible children with special needs in which costs are incurred over and above the Standard Board Rate. Counties must enter into a Vendor Agreement with foster parents; document the child's special needs in the child's case record, as well as any special training required by the foster parents to meet the child's identified need. The standard fixed rate for foster care services is up to \$150.00 per month. A unit of service is one day and up to 30 units of service could be provided to a child per month. Vendor payment rates, policies and forms are found in Volume VI: Services Administration Manual, Chapter IV: Appendix B and are titled: Foster Care Services for Children--Special Services (Code 104).

### **D. OTHER FUNDING THAT MAY BE AVAILABLE**

#### **1. MEDICAL ASSISTANCE**

Title IV-E and TEA eligible children in out of home care are automatically eligible for medical care through Medicaid. As a general rule, in order for non- IV-E or TEA eligible children to be eligible for Medicaid, the parents' income and other income available to the child must meet certain federal poverty guidelines. When parents of children who are in foster care have private medical insurance, it must be used before Medicaid is used.

In some cases, a child under the age of 21 may be eligible for Medicaid regardless of the income of the legal custodian if the anticipated length of stay in the institution or group home is planned to be more than 12 months. In these situations, the child is considered a budget unit of one, and only his income is taken into consideration for eligibility purposes. Refer to the Family and Children's Medicaid Manual, Section 3200 for specific instructions regarding eligibility.

Under the Medicaid program, county Departments of Social Services may receive financial reimbursement for contractual arrangements with foster parents or others for providing transportation for children for medical purposes. Reference may also be made to the Family and Children's Medicaid Manual for specific information regarding documentation and reporting requirements.

## 2. STATE MATERNITY HOME FUND

The State Maternity Home Fund is a funding resource for any North Carolina resident experiencing a problem pregnancy, regardless of age or marital status, who is unable to remain in her own home during the prenatal period and whose financial resources have been determined to be inadequate to meet residential costs in an approved living arrangement. However, the State Maternity Home fund is not available for children placed in a licensed maternity home who are in the custody or placement responsibility of a county DSS who are determined to be IV-E eligible. In these cases, IV-E funds are available and will need to be claimed by the county DSS through the Child Placement and Payment System on behalf of the eligible child. In order to claim IV-E funds, the maternity home must have a facility ID number assigned by the Division of Social Services that is compatible with the Foster Care Facility Licensing System and the county DSS must enter the required data in Sections VIII, IX and X on the child's DSS 5094.

A number of the state's licensed maternity homes have a Facility (cost of care) Rate established by the Division of Social Services, contract with the Division of Social Services and are thus eligible to receive reimbursements directly from the Division of Social Services. County DSS that utilize these maternity homes, therefore, are also eligible to receive IV-E reimbursements for eligible children above the SBR when the county DSS makes payments to the maternity home above the SBR.

County DSS may refer to the annual Facility Rate Dear County Director letter for a listing of maternity homes which have Facility Rates established. A list of licensed maternity homes is available from the Division of Social Services Family Support and Child Welfare Services Team at (919) 733-2580.

## V. FOSTER CARE REIMBURSEMENT BASICS #2

Foster care reimbursements are made monthly to county DSS's for the prior month of service for each child in out of home placement. These payments are

automatically calculated and generated via the Child Placement and Payment System based on information on the DSS 5094. (A DSS 5094 form is required for every child who is in the custody or placement authority of a county DSS **whether or not foster care maintenance payments are made.**)

Reimbursements made both to county Departments of Social Services and to eligible child care agencies that have a Facility Rate are dependent on the timely and accurate entry of data into the Child Placement and Payment System.

The county DSS social worker is the staff designated to complete the DSS 5094, including the information regarding **Placement** under **Sections VIII and IX**, and **Eligibility** under **Section X**, when a child is placed out of his home. It is the social worker who is responsible for ensuring that the DSS 5094 is opened and updated as soon as possible after each change in placement occurs.

County DSS's enter the total amount for which they are claiming reimbursement in Field 50 on the child's DSS 5094. (The Child Placement and Payment System has an edit in place to ensure compliance with federal fiscal policies which will not allow IV-E reimbursements greater than the federal portion of the Facility Rate.) Data-entry in this field ensures that the county DSS's receive the correct reimbursement for the costs which they incur as well as the service providers which have a state established Facility Rate. If the child has resources for which the county DSS does not request reimbursement, the amount of these resources should be entered in Field 56 on the DSS 5094. Refer to the section on **Child's Resources** below.

County DSS data entry staff receives the DSS 5094 from the social worker and keys this information into the Child Placement and Payment System. On the night of the 5th working day of each month, a Foster Care Payment Report is generated by the system and is available on the Report Management Distribution System (RMDS).

Best practice dictates that the required data and needed updates to the DSS 5094 for the prior month's service be entered by the 5th working day of the following month to ensure that the preliminary report will include a complete payment report. This report shows the amount of reimbursement due the county DSS based on the data entered on the DSS 5094 and identifies the reasons for any adjustments by displaying error messages.

On the 16th calendar day of each month, a second Preliminary Report is produced in order for counties to determine if the needed changes have been accepted by the system and whether subsequent changes are needed. Following this second preliminary report, county DSS's have until the 20<sup>th</sup> calendar day of the month (or if the 20th day of the month falls on a holiday or weekend, the cut-off date becomes the last working day prior to the 20th day of the month) to make corrections to the appropriate record which may have resulted in a payment adjustment or to add or delete information on children, if necessary.

On the next working day after the 20th, a final version of the Payment Report is created in RMDS to inform the county DSS of the actual reimbursement amount by child for the month. Payment information is then transmitted to the Warrant

Calculation System and reimbursements are made to the agency or agencies that incurred the costs.

**A. PARTIAL MONTH PAYMENT**

When a child resides in a family foster home for less than a full month, the county may elect to pay the family foster home the full month's payment and will be reimbursed for the days the child was not in care. However, when a child resides in a residential child care facility and the facility has a state established Facility (cost of care) Rate, the county Department of Social Services should make every effort to ensure partial month payments are calculated and entered in Field 51 of the DSS 5094 to ensure that the county is not over reimbursed on behalf of an eligible child. It is the county's responsibility to establish a standardized system for its reimbursement policy.

**B. CONCURRENT PAYMENTS**

Concurrent payments of foster care maintenance and Work First (TANF) benefits in the initial month of a child's placement are permissible under Title IV-E. This means a child who otherwise meets the eligibility criteria for IV-E foster care may have payment authorized the date he comes into care even if the child's family received a Work First (TANF) cash assistance grant for his care during the month he was removed from the home. Current policy states that if any portion of the cost of care of an IV-E eligible child is being reimbursed with Title IV-E funds, the county DSS may use the IV-E Code-Z to claim administrative time (109). Claiming IV-E reimbursement, therefore, allows the county DSS to also claim IV-E administrative costs for social workers' administrative time during the first month of the child's placement. In addition, if a child is placed in a facility with a Facility Rate, IV-E reimbursement above the Standard Board Rate will be available to the agency that incurs the cost up to the agency's Facility Rate.

If the county DSS chooses to claim IV-E maintenance payments for a child's initial month of placement, overpayment of Work First (TANF) may occur and recovery may be necessary. In any case, the family's eligibility for Work First (TANF) cash assistance will need to be predetermined.

**C. CHILD'S RESOURCES**

The county DSS must be aware of all resources available to a child, which may include a child's unearned income from sources such as Supplemental Security Income (SSI), Social Security Survivor's benefits, trust funds, endowments, or child support paid directly to the agency. When a child is IV-E eligible, the agency **must** use the child's resources as part of the cost

of care. For a child who is SFHF eligible, the child's resources **may** be used as part of the cost of care. The amount of the child's resources that is paid toward a child's cost of care should be entered in Field 56 of the DSS 5094. See Concurrent eligibility information in the IV-E section above.

If a county DSS chooses to pay for a child's cost of care and claim IV-E foster care reimbursement, rather than utilize SSI payments, the county DSS may request from the local Social Security office that the child be placed on inactive status. A child may be placed on inactive status for up to one year, without having to re-qualify for SSI. The advantage to concurrent eligibility is that the child will have available to him income immediately following discharge from foster care placement.

Having the SSI payment reinstated without reestablishing the child's SSI eligibility is particularly advantageous for children who are being reunited with their families, who are being placed with relatives or kin, or who are being emancipated prior to their eighteenth birthday.

The child's resources do NOT affect eligibility for programming paid through IV-E Independent Living Funds.

#### **D. USE OF UNLICENSED FOSTER CARE FACILITIES**

Federal and state foster care reimbursements are available to agencies that incur the costs for eligible children in licensed family foster homes or residential child care facilities. North Carolina's IV-E Plan assures the federal agency that North Carolina does not make foster care reimbursements for children in unlicensed family foster homes or child care facilities.

If a child's placement is ordered by the court and the court also orders that the home of placement be studied for licensure, the county Department of Social Services will be responsible for the financial support of the child until the home becomes a licensed family foster home. Both state and federal foster care reimbursement are effective the date the home is licensed or approved by the North Carolina Department of Health and Human Services.

If not sanctioned by the court, the placement of a child in an unlicensed family foster home or child care facility, jeopardizes the receipt of ALL federal and state foster care reimbursement to a county Department of Social Services.

Refer to the Children's Services Manual, Chapter IV: Child Placement Services, Section 1201: Foster Care Services, Section V: Placement Decision-Making (pgs. 57-59) regarding placement with relatives and other homes approved by the court.

**E. RETROACTIVE FOSTER CARE PAYMENT REQUEST**

It is State policy that a retroactive foster care payment request will be approved in the case of a State error, however, a request for a retroactive foster care payment will not generally be approved due to a county DSS error which results in the denial of or incorrect payment for an eligible child to either a county DSS or an eligible child care agency. The county DSS may contact the Family Support and Child Welfare Services Section's Financial Resources Coordinator at (704) 462-2686 to determine if a request for a retroactive foster care payment may be considered.

When a retroactive payment is being requested, a Request for Adjustment to Foster Care Assistance Payment form must be completed and submitted to the Financial Resources Coordinator in the Family Support and Child Welfare Services Section either by the county DSS or the Foster Care Licensing Consultant. A copy of the form is included in the Appendix and can be found at

<http://info.dhhs.state.nc.us/olm/forms/dss/dss-5274-ia.pdf>

In every case, the county DSS should research the county's payment reports before submitting the request, in order to document that an underpayment has occurred. A copy of the child's DSS 5094 and county's payment report must be attached to the request to the Family Support and Child Welfare Services Section.

**Note:** that the Deficit Reduction Act of 2005 eliminated the reimbursement of administrative costs for children placed in any unlicensed facility, except for the period of time on average that it takes to license a foster home or 12 months, whichever is less; or for one month for a child moving from an ineligible facility to an eligible placement. The exception for the licensing period only applies if the agency is actively pursuing licensure of the placement.

**F. PAYMENT ISSUES**

Payment rates for specific children depend on a number of factors, including, but not limited to:

- availability of funding sources,
- the child's special needs,
- the child's current placement,
- the child's eligibility for other specialized programs and funding, etc.

However, there are common issues related to all children in reference to payments with which social services staff need to be knowledgeable.

**1. SERVICE FEES**

The cost of care for certain children may depend upon the facility in which the child is placed. In the past, when a child was placed in out of home care, the placement resource “accepted” the county DSS board payment. For the most part, this practice no longer reflects the child placement or admission standards of eligible child care agencies today. Most of these agencies have “Fees for Services” and “charge daily rates”. These fees for services and daily rates usually coincide with the agencies’ Facility Rate and as such, more accurately reflect the true cost of care. County DSS will need to determine whether the full cost of care will be charged by the service provider or whether a lesser amount will be negotiated. Regardless of the cost, best practice by the county DSS includes obtaining this information up-front and reviewing the financial agreement by the social work supervisor before the child is placed and the agreement signed.

A Dear County Director letter is published annually which lists the Facility Rates that have been established by the Division of Social Services.

**2. ESTABLISHING FACILITY RATES = OPTIMIZING FOSTER CARE PAYMENTS**

The Division of Social Services began establishing Facility Rates in July, 1992. The implementation of this program established a formal process for foster care cost-finding for qualified residential child care facilities and private child-placing agencies.

The initiation of this program was part of the Department of Health and Human Services' overall plan to optimize federal child welfare funds, including federal foster care assistance payments for eligible children placed in licensed non-profit residential child care facilities or private foster family homes under the auspices of licensed child-placing agencies.

Currently, the Division of Social Services, the Controller's Office and private agencies are developing a different method for establishing these facility rates. Once the procedures are developed, this manual will incorporate them. In the meantime, Facility Rates continue to be established as noted below.

Optimizing federal foster care funds was made a reality in North

Carolina in 1992 based on the state receiving federal approval for the methodology utilized to establish cost of care rates. In order for North Carolina to maintain federal approval, North Carolina's cost finding methodology must comply with federal fiscal policies, including the establishment of a single set of standards to establish Facility Rates. In addition, North Carolina's cost-finding methodology must comply with federal program policies which define the types of agencies for which rates may be established and allowable foster care costs. In order to qualify to participate, applicants must be willing to submit annual audited financial information, as well as participate in a month long time study to document federally-defined foster care "allowable" or "non-allowable" social services activities.

Since initial implementation, state program requirements have essentially remained unchanged. Membership the first year (92-93) included 31 agencies. These original agencies were recipients of State Grant-in-Aid to Private Child Caring Institutions (now titled State Funds), as initial implementation was contingent on the appropriation of State funds for non IV-E children. Subsequently, in September, 1993, the Department of Health and Human Services provided North Carolina a written, expanded interpretation of foster care maintenance "allowable costs". With one exception, no other changes have occurred in federal regulations since that time. In August, 1996, a change in federal law allowed for the inclusion of for-profit residential child care facilities.

**FROM THE FEDERAL POLICY MANUAL:**

Formerly, title IV-E foster care maintenance payments for placements in child-care institutions were restricted to public or private nonprofit institutions. Effective August 22, 1996 with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act, title IV-E reimbursement became available for State foster care maintenance expenditures incurred through placements made in eligible private "for-profit" child-care institutions.

**Source/Date:** ACYF-CB-PA-97-01 (7/25/97)

**Legal and Related References:** Social Security Act - section 472 (c)(2).

**3. APPLICATION PROCESS**

In order to have a Facility Rate established by the Division of Social Services, agencies must comply with Division of Social Services' requirements, including the following:

- (1) submission of a completed application OR, IF THE AGENCY IS A DUKE MEMBER, submission of the agency's most recent completed Duke Endowment Application, along with any additional fiscal information required;
- (2) submission of a the agency's most recent financial audit OR, IN THE CASE OF A PUBLIC AGENCY, audited financial statements;
- (3) submission of a signed and completed FORMULA FOR COMPUTING TITLE IV-E ALLOWABLE COSTS WORKSHEET\_for each type of care;
- (4) submission of a completed CERTIFICATION OF ALLOWABLE RECREATION EXPENSE FORM, and
- (5) for agencies which employ staff who perform social services tasks and activities, participation in a month long time study during February.

Agencies are requested to submit the required information and forms by the middle of April each year. During the month of May, the Division of Social Services calculates the Facility Rates for all types of care for every agency.

After the Facility Rates have been calculated, a committee of the North Carolina Association of Residential Child Care and Family Services meets to establish a ceiling or cap on each type of care in accordance with state mandated cost containment measures. New Facility Rates become effective July 1 of each year, for the June month of service.

Federal regulations for the establishment of a Facility (cost of care) Rate include the requirement for staff who perform social services activities to participate in a month long time study each year at a prescribed time. North Carolina conducts the time study annually during the month of February. The purpose of the time study is to document social services activities that the federal regulations specify are either "allowable" or "non-allowable IV-E reimbursable activities. Federal guidelines emphasize that it is "not the title or position of the performer", but rather "the [social services] activity being performed" that determines the staff who should participate in the time study. Division of Social Services' foster care services definitions are utilized for the time study in order for agencies to determine the staff who are required to participate and the tasks and activities that must be documented.

The month long time study entails the completion of daily time sheets by the eligible child care agencies. Prior to the beginning of

the time study, the participating agencies are provided information about state and federal requirements, the application process, the timesheets and instructions and the foster care social services definitions of allowable/non-allowable activities. Upon completion of the time study, the Division of Social Services enters the data and computes the percentage of time spent in allowable/non-allowable social services activities. This percentage is then utilized in the cost finding process as one of the steps in determining the agency's Facility Rate.

#### **G. CONTRACTING WITH THE DIVISION OF SOCIAL SERVICES**

Facilities under the auspices of county government are not required to contract with the Division. Agencies that wish to contract with the Division of Social Services must comply with Department of Health and Human Services' contract requirements.

Information and materials about the contracting process are also provided to agencies annually, at the same time that Time Study materials are provided. The contract year is based on the state's fiscal year which is from July 1 to June 30 and contracts are required to be renewed on an annual basis.

When an agency has met contract requirements and the contract is approved, the eligible child care agency receives foster care reimbursements directly from the Division for eligible children. Payments are made monthly to participating agencies for the preceding month of service through the Child Placement and Payment System. The amount of reimbursement is based on the agency's Facility Rate less the amount received from the county DSS and any resources a child may have. Each contracting agency also receives, monthly, both preliminary and final payment reports, (PQA-120), which lists the children for whom reimbursements are claimed.

#### **H. IV-E MAXIMIZATION PROGRAM**

For those child caring agencies that have established facility rates, IV-E reimburses the county Department of Social Services for the amount of IV-E dollars that the Federal and State spend for the care. If a facility in NC has an established facility rate, but the county only pays a portion of the established facility rate, the facility may claim IV-E reimbursement for the difference between what the county paid and the actual facility rate.

For example, Agency X has a Facility Rate of \$4000.00 per month per child. The county DSS pays Agency X a \$1000.00 monthly

foster care payment for an IV-E eligible child. \$1000.00 is entered in Field 50 (Monthly Rate) on the DSS 5094. The county DSS receives federal and state reimbursement for the standard board rate (SBR) and also receives federal reimbursement for the difference between the amount entered in Field 50 of the DSS 5094 and the SBR. The calculation is:  $\$1000.00 - \text{SBR} \times \text{federal participation rate}$  (say, 63.07%) = federal reimbursement received by the county DSS for payment made above the SBR. In addition, Agency X receives federal reimbursement for the difference between the amount paid by the county DSS and the Facility Rate.

The calculation is:  $\$4000.00 - \$1000.00 = \$3000.00 \times \text{federal participation rate}$  reimbursement for the SBR and also federal reimbursement for the difference between the amount they paid and the SBR ( $\$1000 - \$415 = \$585 \times 63.07\% = \$368.96$ ). Agency X does not receive any federal IV-E Maximization reimbursement in this example.

Example 2: Agency X has an established Facility Rate of \$1000.00 per month. The county DSS pays Agency X a \$1000.00 monthly foster care payment for an IV-E eligible child. \$1000.00 is entered in Field 50 (Monthly Rate) on the DSS 5094. Since the county DSS paid the full amount of the Facility Rate, the DSS receives state and federal reimbursement.

#### Documentation Requirements

Both IV-E and TEA permit maximization for eligible children in these facilities. Documentation must support IV-E or TEA requirements.

### I. **EXCLUSION FROM HIGH RISK INTERVENTION-RESIDENTIAL MENTAL HEALTH SERVICES**

The exclusion from HRI-R applies only to facilities with a maximized IV-E Facility Rate when serving an IV-E eligible child.

- 1. For IV-E Eligible Children in Child Caring Agencies which participate in the Maximization of IV-E Program:** Effective October 1, 1998, HRI-R will no longer be an available service for IV-E eligible children residing in child caring agencies which participate in the Maximization of IV-E Program, in accordance with the policy outlined in a Dear County Director letter dated May 14, 1998. If an eligible child caring agency offers mental health services which are provided by professional level staff (social workers, psychologists, psychiatrists, etc.), then an area program may, at its discretion, contract for those services and use periodic services billed to Medicaid to support the contracts.

It is expected that these services will be limited in nature.

2. ***For IV-E Eligible Children in Child Caring Agencies which DO NOT participate in the Maximization of IV-E Program:*** Area programs may contract for the provision of HRI-R services in agencies which do *not* have a maximized IV-E Facility Rate established by the Division of Social Services. Additional professional level mental health services may also be contracted.
3. **For non IV-E, Medicaid-eligible** children being served in Child Caring Agencies that participate in the Maximization of IV-E Program and those that do not, Local Management Entities (LME-formally known as Area Programs) may contract for the provision of HRI-R and/or professional level mental health services.

#### J. **CONTRACTING FOR MENTAL HEALTH SERVICES**

The Division of Medical Assistance has vested the LME (MH/DD/SA Programs) with the responsibility of determining when children, who are Medicaid recipients, are in need of certain specified mental health services as defined in the Rehabilitation Plan. When a Medicaid eligible child, who is being served in a child caring agency, has been determined by the Area LME MH/DD/SA Program to be in need of mental health services, the area program may request that the child caring agency provide, under contract, the specified mental health services. If the child caring agency has a Facility Rate established by the Division of Social Services through the IV-E Maximization program, special care must be taken to ensure that the federal government is not billed twice for the same service.

#### K. **ASSIGNMENT OF H FACILITY IDENTIFICATION NUMBERS**

In order for county DSS to receive foster care reimbursement for an eligible child placed in a mental health therapeutic home or residential treatment center licensed by the Division of Facility Services, the facility must have a license identification number that is compatible with the Foster Care Facility Licensing System. The facility must apply for this identification number by contacting the Division of Mental Health at (919) 733-0598 and providing a copy of the current license and supplying the necessary information to that Division.

A copy of the application form is included in the Appendix. Division of Mental Health staff review the completed application and license and, if approved, assign an identification number, complete a DSS 5015 and submit the form to Family Support and Child Welfare Services Section for entry into the Foster Care Facility Licensing System.

In order for these facilities to remain current in the Foster Care Facility Licensing System, the facility must submit a copy of the new license to the Division of Mental Health when the former license expires.

**L. ESTABLISHING AGENCY POLICIES FOR PAYMENT OF FOSTER CARE FOR CHILDREN IN OUT OF HOME CARE**

Federal foster care regulations prohibit the discrimination in service provision based upon the funding category of the child. Therefore, in order for a county DSS to justify foster care maintenance payments and reimbursement claims above room and board, the county DSS should establish policies regarding the foster care expenses that will be covered. Federal fiscal policies require that such policies must be inclusive of all children placed in out of home care, regardless of the funding category. It is recommended that the county DSS establish separate policies for the payment of foster care expenses for children placed in residential child care facilities, private agency specialized family foster homes, as well as county DSS family foster homes.

County DSS policy for children placed in residential child care facilities should address at a minimum that the amount of the payment to be negotiated will be based on "Service Fees" or actual costs of care for clearly definable services. The policy should include a statement that the amount of the payment to be negotiated will not exceed 100% of the total cost of care (the Facility Rate) from all funding sources. The policy should specify that for an IV-E eligible child, the federal share will include, but not exceed, the FFP of the Facility Rate. For non-IV-E eligible children, the policy should specify that if the service provider is a member of the State Funds program, the payment will include this resource for the child before the payment of county funds. Such a policy would assure compliance with federal fiscal and foster care program policies.

County DSS policy for children who are placed in specialized family foster homes under the administrative auspices of licensed private child-placing agencies should specify that the amount of payment to be negotiated will be based on "Service Fees" or actual costs of care for clearly definable services.

The policy should include a statement that the amount of the payment to be negotiated will not exceed 100% of the total cost of care (the Facility Rate) from all funding sources. The policy should specify that for an IV-E eligible child, the federal share will include, but not exceed, the FFP of the Facility Rate. For non-IV-E eligible children, the policy should specify that if the service provider is a member of the State Funds program, the payment will include this resource for the child before the payment of county funds. Such a policy would assure compliance with federal fiscal and foster care program policies.

County DSS policy for children who are placed in county DSS family foster homes should include such claimable foster care expenses that are included in Title IV-E allowable costs. The policy would most likely include the payment of graduated board payments for children based on age, graduated difficulty of care payments based on special physical, emotional or mental needs of a child, semi-annual clothing allowances, specific personal incidentals, respite care, some transportation expenses and certain day care expenses. The day care provider who provides a foster child daily supervision in the foster parent's stead must be licensed or approved by the state in order to claim IV-E foster care reimbursement. **[Currently, day care expenses for eligible IV-E children for their foster parent to work outside the home are claimed by the State, thus these expenses are not claimed on an individual child's DSS 5094.]**

Additional day care expenses which may be covered under IV-E foster care maintenance payments; include day care costs which facilitate the foster parent's attendance at activities which are beyond the scope of "ordinary parental duties". These include informal and episodic day care and baby-sitting costs paid for the foster parent's attendance at:

- administrative case and judicial reviews without the child,
- mandated case conferences and team meetings without the child, and
- foster parent training.

**M. EXCLUDED FROM REIMBURSEMENT AS AN ALLOWABLE IV-E FOSTER CARE MAINTENANCE COST ARE DAY CARE OR BABY-SITTING COSTS PAID FOR:**

- illness of a foster parent,
- foster parent's attendance at a school conference or pupil evaluation,
- foster parent visits with a child who is temporarily out of the home, that is a child who is hospitalized or at camp,
- enhancement of social skills/ peer relationships/ socialization, EXCEPT WHEN RECREATIONAL ACTIVITIES CLEARLY SUBSTITUTE FOR OTHERWISE NECESSARY DAILY SUPERVISION, THAT IS FOR CHILD CARE DURING THE FOSTER PARENT'S WORKING HOURS, and
- special needs of child best met in a day care setting, i.e.; therapeutic day care.

**TRANSPORTATION**

Most transportation expenses for a foster child are presumed to be included

in the basic maintenance payment. Transportation costs which may be included as part of the IV-E foster care maintenance expenses, and which county DSS may want to include as such in county policy include travel expenses of a child to and from the following activities:

- allowable day care;
- extracurricular activities that substitute for daily supervision;
- reasonable and occasional sports and cultural events; and
- to a child's home for visitation.

The following transportation expenses may be specifically allowable per federal policy as a separate maintenance expense. Should the county want to claim reimbursement for this expense, they should insure that all children's transportation needs are treated the same since IV-E guidelines require that children may not be treated differently based on their funding source. Transportation of the foster child in the following situations may be considered a separate maintenance expense.

- Visitation with siblings, other relatives, or other caretakers, but not for the transportation costs of a relative visiting with a child.
- In addition, reasonable transportation costs for visits at locations other than the child's home, e.g., at the child welfare office or other location deemed appropriate by the agency. These costs do not include the costs of a biological parent or other relative visiting with the child.

Transportation expenses for the above situations may be claimed via the DSS 5094 in the same way that clothing allowances are claimed.

The foster parents will receive the reimbursement through the temporarily increased amount of the foster care board payment.

If social workers are used to provide transportation that is allowable under IV-E, the expenses for these workers may be claimed via the DSS 1571. Counties should be aware that these costs and reimbursements must be tracked separately. Counties are advised to contact their Local Business Liaisons to obtain further specifics on claiming these costs.

**N. EXCLUDED FROM REIMBURSEMENT AS AN ALLOWABLE IV-E FOSTER CARE MAINTENANCE EXPENSE IS TRANSPORTATION FOR:**

- a foster parent's and/or a child's attendance at administrative reviews, judicial reviews, case conferences, team meetings, and foster parent training. (County DSS may claim these expenses, with the exception of training, as allowable Title IV-E administrative expenditures. Transportation to provide for a foster parent's attendance at mandatory foster parent

training may be claimed as allowable IV-E training expenditures.)

- a child's travel to and from school;
- pre-placement visits (placement activities are allowable Title IV-E administrative expenditures);
- medical purposes (transportation for medical purposes may be claimed under Medicaid); and
- foster family trips

According to the Internal Revenue Code, qualified foster care payments made to qualified foster parents by qualified agencies are not considered taxable income if certain conditions are met. The primary condition is that if these payments are to be considered nontaxable, the foster parents may **NOT** claim the children in their care as dependents. In addition, if foster parents incur un-reimbursed expenses in excess of the amount they receive as room and board payments and difficulty of care payments, that excess amount may be taken as a charitable contribution on their Itemized Deduction Schedule.

The Internal Revenue Code defines "qualified foster care payment" as an amount which is "paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home, or difficulty of care payment".

"Difficulty of care payment" is defined in the Internal Revenue Code as "compensation for providing the additional care of a qualified foster child which is required by reason of a physical, mental or emotional handicap to which the State has determined that there is a need for the additional compensation and provided in the home of the foster parent." (PL97-473: Sec.131 CERTAIN FOSTER CARE PAYMENTS. eff. 1/1/83.)