

1802 ADOPTION ASSISTANCE PROGRAM	
Chapter: Adoption and Post-Adoption Supports	Section: Adoptions
 <p>New Hampshire Division for Children, Youth and Families Policy Manual Policy Directive: 18-26 Effective Date: September 2018 Scheduled Review Date:</p>	<p>Approved:</p>  Joseph E. Ribsam, Jr., DCYF Director
Related Statute(s): RSA 169-C , and RSA 170-B Related Admin Rule(s): Related Federal Regulation(s): SSA 471 , SSA 473 , SSA 473A , SSA 475 , 45 CFR 205.10 , 45 CFR 1356.21 , 45 CFR 1356.40 , and 45 CFR 1356.41	Related Form(s): FORM 1716 , FORM 1799 , FORM 1801 , FORM 1802 , FORM 1803 , FORM 1804 , and FORM 2665 Bridges' Screen(s) and Attachment(s):

All children/youth need and deserve permanency. Adoption assistance is a resource used to remove barriers to adoption for children/youth who have special needs and who cannot be adopted without adoption assistance. Before considering adoption assistance, staff must make efforts to recruit an adoptive family who can meet the child/youth's needs without adoption assistance, unless it is determined not to be in the best interest of the child. When the Division identifies that a child/youth who is pending adoption may be eligible for additional services to support their permanency, the Division works with the family to facilitate the family accessing these services to support the child/youth and family.

Purpose

This policy describes the NH Adoption Assistance Program including program qualifications, adoption assistance communications, agreements, and staff responsibilities.

Definitions

"Adoption Assistance Agreement" means a written agreement, between DCYF and the prospective adoptive parent(s) of a minor child/youth with special needs, that: specifies the nature and amount of any payments, services or assistance to be provided; provides that the agreement will remain in effect regardless of where the adoptive parents reside; and, contains provisions for the protection of the interests of the child/youth in cases where the adoptive parents and child/youth move to another State.

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

"Special Needs" means a the circumstances of a child/youth as defined in the Social Security Act 473(c)(2).

Adoption Assistance Agreements

- I. As a Title IV-E program, DCYF must enter into Adoption Assistance Agreements with the adoptive parents of children/youth with **special needs**.
 - A. Adoption Assistance Agreements must at least:
 1. Specify the nature and amount of any payments, services, and assistance to be provided; and

2. Stipulate that the agreement shall remain in effect regardless of the State in which the adoptive parents are residents at any given time.
- B. Through the Adoption Assistance Agreement, DCYF:
1. Shall pay nonrecurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of the child/youth with special needs.
 - (a) This applies to a child/youth adopted through the State agency or through another licensed child-placing agency.
 - (b) This does not include a child/youth adopted without the oversight of an agency (e.g. A child adopted by a grandparent who petitions the court without DCYF or another licensed child-placing agency's assistance).
 2. May make adoption assistance payments to parents whose adopted child/youth with special needs is found eligible pursuant to SSA 473(a)(2).
- II. A child/youth cannot qualify for an Adoption Assistance Agreement without having identified special need(s).
- A. **Special needs** are defined in SSA 473(c)(2) as a child/youth who:
1. Cannot or should not be reunified to their parent(s) as determined by DCYF or pursuant to DCYF criteria;
 2. Reasonable but unsuccessful efforts have been made to place the child/youth with appropriate adoptive parents without providing an Adoption Assistance Agreement, unless the Division determined it would not be in the child/youth's best interests because of factors such as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child; and
 3. Either:
 - (a) There is a [child-specific factor/condition](#) which makes it reasonable to conclude that the child cannot be placed with adoptive parents without providing an Adoption Assistance Agreement; or
 - (b) The child/youth meets all medical or disability eligibility requirements for supplemental security income (SSI) benefits.
- III. When a child/youth enters out-of-home care, information is gathered to determine if a child/youth has special needs.
- A. A meeting with the placement provider is held to see if they are able to meet these needs. This meeting includes discussion about the concurrent plan of adoption, if applicable, and assessment and documentation of the child/youth's special need(s).
- B. Permanency staff are responsible for working on the adoption permanency plan, ensuring adoptive histories are completed, documenting the child/youth's special needs and the family's circumstances, and presenting this information to the Adoption Program Supervisor.

- C. Fiscal Specialists will review the child/youth's information to see if there are other resources available to the child/youth such as SSA/SSI, Medicaid, or community resources that may meet the child/youth's need(s).
- IV. Adoption Assistance Agreements are negotiated with adoptive parent(s) and the Adoption Program Supervisor after all other eligibility requirements are met:
- A. Adoption is the permanent plan and the child/youth is in the pre-adoptive placement.
 - B. Circumstances are confirmed:
 - 1. The child/youth meets special needs qualifications; and
 - 2. The child/youth is eligible for Title IV-E adoption assistance payments, if adoption assistance payments will be a part of the agreement. See Adoption Assistance Payments below for more information.
 - C. The scope and nature of any services or assistance to be provided must be defined before the Adoption Assistance Agreement is signed by all parties and before the adoption can be finalized, including:
 - 1. Nonrecurring adoption expenses;
 - 2. Adoption assistance payments; and
 - 3. Medical benefits in accordance with and pursuant to federal law (Title XIX of the Social Security Act) and the state's Medicaid State Plan.
- V. An Adoption Assistance Agreement will terminate (in its entirety) when:
- A. The child/youth turns 18 years old (with the exception of adoption assistance payments provided for in the agreement which terminate on the date specified in the agreement);
 - B. DCYF determines that the adoptive parents are no longer legally responsible for the support of the child/youth;
 - 1. The adoptive parent(s) are deemed "no longer legally responsible for the support of the child/youth" if the adoptive parent(s) parental rights are terminated or if the child/youth is emancipated, marries, or enlists in the military;
 - C. DCYF determines that the adoptive parents are no longer providing any support for the child/youth; or
 - D. The adoptive parent(s) dies or the child/youth dies.

Nonrecurring Adoption Expenses

- I. In alignment with 45 CFR 1356.41:
 - A. The only eligibility criterion for reimbursement of the nonrecurring adoption expenses is that DCYF determines the child meets the definition of special needs, in accordance with SSA 473.

- B. Siblings adopted, either separately or as a unit, will be treated as individuals with each eligible for separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child/youth.
- II. Pursuant to SSA 473(a)(6)(A) the term “nonrecurring adoption expenses” means reasonable and necessary:
- A. Adoption fees;
 - B. Court costs;
 - C. Attorney fees; or
 - D. Other expenses directly related to the legal adoption of the child/youth which are not incurred in violation of State or Federal law and which have not been reimbursed from other sources or other funds.
 - 1. Other expenses are identified in 45 CFR1356.41 as including the adoption study, including health and psychological examination, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.
- III. The Division is responsible for the payment of non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of the child/youth with special needs up to a maximum of \$2,000.
- IV. The agreement for payment of nonrecurring expenses must be signed at the time of, or prior to, the final decree of adoption, however claims for nonrecurring adoption expenses for a child/youth with special needs adopted through a licensed child-placing agency must be filed with the Division within two (2) years of the date of the final decree of adoption.

Adoption Assistance Payments

- I. Pursuant to SSA 473(a)(2)(A) a child/youth with special needs is eligible for Title IV-E adoption assistance payments if the child/youth meets A or B:
- A. Is not an applicable child as outlined in II below but meets one of the following 1, 2, or 3 paragraphs:
 - 1. Meets all eligibility requirements for supplemental security income (SSI) benefits;
 - 2. Is a child of a minor parent whose placement costs are covered by the minor parent’s foster care maintenance payments (IV-E eligibility); or
 - 3. Was removed from a relative caregiver and placed in foster care through a voluntary agreement or in accordance with a judicial determination that continuation in the home was contrary to the child’s welfare, and the relative caregiver’s home meets AFDC eligibility requirements as outlined in SSA 472(a)(3).
 - B. Is an applicable child as outlined in II below and meets one of the following 1, 2, or 3 paragraphs:

1. Was in the care of DCYF, a licensed child-placing agency, or Indian tribal organization, at the time the adoption proceedings were initiated. This may be pursuant to:
 - (a) An involuntary removal of the child from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child/youth; or
 - (b) A voluntary placement agreement or voluntary relinquishment.
 2. Meets all medical or disability requirements for supplemental security income (SSI) benefits; or
 3. Was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such placement pursuant to:
 - (a) An involuntary removal of the minor parent from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the minor parent; or
 - (b) A voluntary placement agreement or voluntary relinquishment.
- II. Pursuant to SSA 473(e) a child/youth is applicable if they meet one of the following two (2) criteria:
- A. Age:
 1. Any child two (2) years of age or older is applicable.
 2. As of July 1, 2024 any child of any age is applicable.
 - B. Member of a sibling group: Any child of any age can be applicable if they are a sibling to an applicable child and will be in the same adoptive placement as the sibling who is an applicable child on the date on which the adoption assistance agreement will be entered into.
- III. Pursuant to 473(a)(2)(C)(ii) a child/youth is eligible for Title IV-E adoption assistance payments if the child youth was found Title IV-E eligible with respect to a prior adoption and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated, or because the child/youth's adoptive parents have died.
- IV. A child/youth eligible for adoption assistance payments may receive such payments as a stipulation of the Adoption Assistance Agreement if determined necessary by DYCF to overcome barriers to adoption.
- A. The adoptive parent(s) must identify the following information in their request for adoption assistance payments:
 1. Commitment to the child/youth;
 2. Number and ages of family members including children/youth, if any, in their family;

3. Family resources;
 4. Ability to adopt a child/youth without adoption assistance;
 5. Community and other resources available to meet the child/youth's needs; and
 6. Extra expenses required to meet the child/youth's special needs.
- B. DCYF will consider the following factors in determining if adoption assistance payments are necessary:
1. Medical needs that require specialized care in the home which is not covered by Medicaid;
 2. Serious emotional disturbance that requires constant supervision and trained intervention above what is typically required for children/youth of a similar age;
 3. Developmental needs which require specialized supervision, home modifications, and/or specialized equipment;
 4. Child/youth is part of a sibling group, one of whom meets the criteria listed above; or
 5. Other costs associated with the care of the child/youth which, in combination with the family's circumstances, create a barrier to the adoption.
- V. If DCYF determines adoption assistance payments are necessary, the adoption assistance payments shall be defined in the Adoption Assistance Agreement.
- A. In determining the amount of an adoption assistance payment to be provided under the Adoption Assistance Agreement, the Adoption Program Supervisor shall consider the special needs of the child/youth and the circumstances of the parent(s).
1. The payments may not exceed the general foster care rate, or a specialized rate that would have been paid if the child had been in foster care, to cover the additional costs of meeting the adoptive child/youth's special needs.
 2. The special needs of the child/youth shall be documented on Form 1801 Special Needs Determination.
 3. The circumstances of the parent shall be documented on Form 1802 Adoption Assistance Application.
- VI. If an Adoption Assistance Agreement has been signed including adoption assistance payments, the child/youth is eligible for such payments, during the period of the placement in the adoptive home, on the same terms and subject to the same conditions as if the adoption had been finalized, pursuant to SSA 473(a)(5).
- VII. An agreement for adoption assistance payments must specify its duration which may not exceed the child/youth's 18th birthday.

- A. Any adoption assistance payment provided for in the Adoption Assistance Agreement shall automatically terminate on the date specified in the agreement unless that date is extended or modified by further agreement of the parties prior to the termination date.
- VIII. DCYF may suspend adoption assistance payments if:
- A. The Division cannot establish that the adoptive parent is providing any support to the child/youth because the Division has not been able to establish contact with the parent to make such a determination.
 - 1. "Any support" includes various forms of financial support, as determined by DCYF. Payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs are acceptable forms of financial support.
 - B. The Division cannot establish that the adoptive parent is legally responsible for the support of the child because the Division has not been able to establish contact with the parent to make a determination.
 - 1. A parent is considered no longer legally responsible for the support of a minor child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military.
 - C. DCYF cannot reduce or suspend adoption assistance solely because the adoptive parents fail to reply to the agency's request for information, renewal, or recertification of the adoption assistance agreement.
- IX. Before suspending a payment, DCYF must ensure that notice to the adoptive parents is both timely and adequate, as described at 45 CFR 205.10(a)(4).
- A. DCYF must mail notice of intent to suspend the adoption assistance payments at least 10 days before the Division plans to suspend the payments;
 - B. The notice must describe that the Division intends to suspend payments, the reasons for the intended suspension and the Title IV-E basis for the intended suspension; and
 - C. The Division must describe the adoptive parent's right to request a fair hearing and the circumstances under which assistance is continued if a hearing is requested.
- X. Any adoption assistance payments for a non-Title IV-E eligible child with special needs will be paid for entirely with general fund dollars.
- XI. Although DCYF may suspend a child's adoption assistance payment under the circumstances described in VIII above:
- A. The child/youth remains title IV-E eligible, and the Adoption Assistance Agreement remains in effect while the payment is suspended.
 - B. The child/youth's eligibility for, and receipt of, Medicaid may not be suspended while the Adoption Assistance Agreement is in effect.

- C. DCYF may claim any title IV-E adoption assistance administrative costs on behalf of a child whose title IV-E adoption assistance is suspended in accordance with its approved cost allocation plan.

Procedures

- I. The Fiscal Specialist shall determine whether or not the child/youth meets the eligibility requirements for adoption assistance under Title IV- E and provides notice to the Permanency staff of the child/youth's Title IV-E eligibility on Form 2665, Adoption IV-E Verification. (See Chapter 900 of the Family Services Children's Eligibility Manual.)
- II. Permanency Staff:
 - A. Confirms the child/youth's permanent plan is adoption and is (or will soon be) legally free for adoption;
 - B. Has a discussion with prospective adoptive parent(s) about a child/youth's special needs, what it means to adopt, how it differs from foster care, and the responsibilities of being the permanent parent(s) of this child/youth;
 - C. Provides the adoptive parent(s) information about adoption assistance, including:
 - 1. The purpose of financial assistance;
 - 2. Eligibility criteria;
 - 3. Medicaid;
 - 4. Post-adoption services; and
 - 5. Any adoption tax credit that the family may be eligible for.
 - D. Provides the parent(s) with the application for adoption assistance and collects the completed form to return it to the Adoption Program Supervisor;
 - E. Makes a preliminary determination as to whether or not the child/youth is a "child with special needs" and documents the determination on the Special Needs Determination (Form 1801), and sends it to the Adoption Program Supervisor;
 - 1. Consider the child-specific factors or conditions (noted in the practice guidance below) which make it reasonable to conclude that the child/youth cannot be placed with adoptive parents without providing adoption assistance payments in Section 2 of Form 1801, Special Needs Determination.
 - F. Requests that the Fiscal Specialist confirm, document, and forward the child/youth's Title IV-E eligibility on the Adoption IV-E Verification (Form 2665) from Procedure I, if not already received;
 - G. Works with the Fiscal Specialist to see if there are other resources available to the child/youth such as SSA/SSI or community resources that may meet the child/youth's special need and informs the Adoption Program Supervisor of any additional resources identified;

- H. Sends information about the adoptive parent(s) circumstances to the Adoption Program Supervisor, including:
1. Adoption IV-E verification Form 2665;
 2. Adoption Special Needs Determination Form 1801;
 3. Adoption Assistance Application Form 1802;
 4. A-W9 form;
 5. Resource Care Enrollment /Change Form 2104;
 6. Foster/Adoptive Home Study and adoption update with copies of criminal records checks, FBI checks, and central registry checks; and
 7. Adoptive History Part I and II Form 1790.
 - (a) If the Adoptive History is not complete, documentation verifying the special needs identified on the Special Needs Determination Form 1801 and any additional documentation regarding the child's special needs must be submitted with the application packet.

III. Adoption Program Supervisor or their designee:

- A. Reviews the information provided in procedure II-H and gathers any other available information related to the applicant;
- B. Makes the final determination of the child/youth's condition and/or factors that he or she is a child with special needs;
- C. Contacts the adoptive assistance applicant if necessary to gather any additional information necessary to determine if the child/youth is eligible for financial assistance;
- D. Determines the type(s) of assistance (if any) the adoptive parent(s) may receive and notifies the permanency staff; and
- E. Sends the Adoption Assistance Agreement (Form 1803) and the Special Needs Determination (Form 1801) to the adoptive parent(s) and provides a copy of the signed agreement to the permanency staff and Fiscal Specialist.

Practice Guidance

What is a "child-specific factor/condition" which makes it reasonable to conclude that a child cannot be placed without providing adoption assistance?

- Conditions and factors that may qualify a child/youth as a child with special needs and make them eligible to for adoption assistance include but are not limited to:
 - Age (At least six (6) years of age, if age is the only criteria);
 - Ethnic or racial background (is a member of a minority group);
 - Membership in a sibling group (is part of a sibling group or joining a sibling);
 - Documented physical, mental, or emotional disabilities; or
 - Risk of physical, mental, or emotional disability, based on birth family history, prenatal factors, or more than two (2) [adverse childhood experiences](#).

- Adverse childhood experiences include but are not limited to:
 - Physical, sexual or emotional abuse;
 - Physical or emotional neglect;
 - Intimate partner violence;
 - Caregiver treated violently;
 - Substance misuse within household;
 - Household mental illness;
 - Parental separation or divorce; and
 - Incarcerated household member.

How does the Division show a child/youth “cannot or should not be reunified to their parent(s)”?

- For children/youth who are adopted through DCYF, the judicial determination made at the first court hearing sanctioning the child/youth’s removal from their home with regards to “contrary to the welfare” meets this standard for Title IV-E Adoption Assistance eligibility. If the “contrary to the welfare” determination is not made at the first court hearing sanctioning removal, the child is not eligible for Title IV-E Adoption Assistance following an involuntary removal. The requirements for reasonable efforts to prevent removal and reunify with the family, although required for Title IV-E Foster Care are not required for Title IV-E Adoption Assistance.
- For a child/youth who is not being adopted through DCYF but through a licensed child-placing agency, documentation of a judicial determination to Terminate Parental Rights or approved Voluntary Surrender can be used.

How early can an adoptive parent enter into an Adoption Assistance Agreement?

- The Division’s practice is to wait to enter into Adoption Assistance Agreements until after a child/youth is legally free for adoption. However the federal regulation in SSA 473(a)(5) allows for an agreement to be signed and implemented “upon the adoptive placement.” In many circumstances an adoptive placement has been a foster care placement and a child/youth cannot receive both Title IV-E Foster Care and Title IV-E Adoption Assistance so the Division operates under the Title IV-E Foster Care until such time as the adoption is imminent. However if there is a circumstance where a child/youth with special needs is in an adoptive placement that is not a licensed foster home or the child is not IV-E eligible contact the Adoption Program Supervisor and Fiscal Specialist to consider if the child/youth and adoptive parent(s) may be able to enter into an Adoption Assistance Agreement to receive assistance earlier.