

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Policy Guide 2018.02**

**SECTION 302.310, ADOPTION ASSISTANCE**

**DATE:** January 29, 2018

**TO:** All DCFS and Private Agency Permanency Workers and Supervisors,  
Adoption Coordinators and Adoption Staff

**FROM:** Beverly J. Walker, Acting Director

**EFFECTIVE:** Immediately

**I. PURPOSE**

Effective immediately this Policy Guide rescinds and replaces Policy Guide 2017.11 which, in addition to the changes outlined below, changed the age of eligibility Adoption Assistance children for employment related day care services from up to three years of age to up to age six. Section III(c)(6) of this Policy Guide reverts the eligibility age for employment related day care services back to up to three years of age. DCFS has proposed amendments and revisions to **Rules and Procedures 302.310, Adoption Assistance**. In the interim, this Policy Guide will serve as procedures necessary for implementation.

Additional changes were made in section III (e) which outlines notification requirements to the Department by the adoptive parent for children who were 16 years of age and older and their adoption was finalized after July 1<sup>st</sup>, 2017.

Section III (h), Termination of Adoption Assistance includes the conditions under which adoption assistance may continue until the child's 21<sup>st</sup> birthday, for children who were 16 years of age and older and their adoption was finalized after July 1<sup>st</sup>, 2017.

**II. PRIMARY USERS**

The primary users of this Policy Guide are POS and DCFS permanency workers and supervisors, DCFS and POS adoption workers, coordinators, their supervisors and managers.



### **III. SECTION 302.310 ADOPTION ASSISTANCE**

#### **a) General Provisions**

##### **1) Eligibility, Funding Source, Assistance Amounts**

- A) Adoption assistance may be provided to those persons adopting children who are legally free for adoption, who are residents or are youth in care of Illinois, and who the Department has determined meet the special needs criteria for non-recurring adoption assistance or who meet both the eligibility and special needs criteria for ongoing adoption assistance and who, it is reasonable to conclude, are not likely to be adopted without the provision of adoption assistance.
- B) Adoption assistance is available through a combination of federal and State funding. The State receives federal reimbursement for a portion of the assistance provided for children meeting the Title IV-E eligibility criteria of the Social Security Act. The Department must comply with all of the requirements of that Act to claim funding for Title IV-E eligible children. The Title IV-E adoption assistance process is a combination of the field staff preparing the subsidy and documenting special needs followed by a centralized eligibility unit determining financial aspects of Title IV-E assistance.
- C) State funding provides adoption assistance for children for whom the Department has placement and care responsibility and who meet the special needs criteria but are not eligible for Title IV-E adoption assistance. State funding also provides adoption assistance for children who age out of eligibility for Title IV-E adoption assistance and continue in school up to the earliest of their nineteenth birthday or graduation from high school.
- D) Adoption assistance shall be determined regardless of the financial circumstances of the adoptive parents. The types and amounts of assistance shall be determined by the Department and the adoptive parents on an individual basis. The Department shall notify the prospective adoptive parents of the availability and the types of assistance. The adoptive parent may refuse any or all of the adoption assistance. The ongoing monthly payment shall be issued to the person identified in the adoption assistance agreement. Any type of adoption assistance services included in this Part that are payable through insurance or other funding sources will not be paid by the Department. The child adopted with adoption assistance is entitled to receive only those services and/or payments specified in the adoption assistance agreement.

- 2) Responsibility of the State in Interjurisdictional Adoptions
  - A) When the Department has responsibility for placement and care of a child who is eligible for Title IV-E reimbursement, the Department is responsible for entering into the adoption assistance agreement and paying the adoption subsidy, even if the child is placed in an adoptive home in another state.
  - B) If the Department does not have responsibility for placement and care of a Title IV-E eligible child, it is the adoptive parent's state of residence where the adoption assistance application should be made. In that event, the public child welfare agency in the adoptive parent's state of residence is responsible for determining whether the Title IV-E child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
- 3) Continued Eligibility of Children
  - A) If an adoption is dissolved because of the termination of parental rights, or the death of the adoptive parents, a child adopted with Title IV-E adoption assistance continues to be eligible for Title IV-E adoption assistance if the State determines that the child meets the definition of a child with special needs prior to finalization of adoption.
  - B) When an adoption assistance agreement is terminated because of the death of the adoptive parents, or the termination of parental rights and the child is adopted again, the Title IV-E child's state of residence is responsible for entering into the assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
  - C) A child who was previously adopted with adoption assistance and whose adoption dissolves or whose adoptive parents die may be treated as if the financial circumstances for a subsequent adoption are the same as the first time the child was adopted.

**b) Eligibility for Adoption Assistance**

Children who are under the Department's legal responsibility and those who are not under the Department's legal responsibility when the adoption petition is filed are eligible for Title IV-E adoption assistance when they meet one of the eligibility criteria described in this subsection (b)(1) and the special needs criteria detailed in subsection (b)(2). Children for whom the Department of Children and Family Services is responsible for placement and care when the adoption petition is filed who do not meet the eligibility requirements in this subsection (b)(1) but do meet the

special needs criteria detailed in subsection (b)(2) are eligible for State-funded adoption assistance. Children not under the legal responsibility of the Department who do not meet the eligibility criteria described in this subsection (b)(1) but who meet the definition of a child with special needs are eligible for adoption assistance non-recurring expenses only. The Department will not disqualify a child who is otherwise eligible for adoption assistance based on the child being an alien child. A qualified alien child must meet the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (P.L. 104-193, 110 Stat. 2168), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (P.L. 104-208), and the Balanced Budget Act of 1997 (BBA) (P.L. 105-33, 8 USC 1642).

- 1) The child was eligible for AFDC under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996 during the month the petition was filed to remove the child from the home and the Department has determined that the child meets the definition of a child with special needs; or
  - A) An AFDC-eligible child removed from the home as a result of a court order shall be eligible for adoption assistance when there is a judicial determination in the removal order that it was contrary to the welfare of the child to remain in the home.
  - B) An AFDC-eligible child removed from the home as a result of a voluntary placement agreement shall be eligible for adoption assistance when the child was placed in a foster home and at least one Title IV-E maintenance payment was made while the voluntary placement agreement was in effect.
  - C) An AFDC-eligible child who was voluntarily relinquished to a public or private not-for-profit agency shall be eligible for adoption assistance in the following circumstances:
    - a petition to officially remove the child from the home was filed with the court within 6 months after the child last lived with the relative who voluntarily relinquished the child; and
    - there is subsequent judicial determination that remaining in the home is contrary to the child's welfare; or
  - D) The child's eligibility for Supplemental Security Income (SSI) was established and documented by the Social Security Administration and the Department determines that the child meets the definition of a child with special needs prior to the finalization of the adoption; or

- E) The child is a child of minor parent receiving Title IV-E foster care maintenance payments that include the child, although the child is not a ward of the Department and the child meets the definition of a child with special needs; or
- F) The child is a child for whom adoptive parents were previously receiving adoption assistance and the Department has determined that the child meets the definition of a child with special needs prior to the finalization of the subsequent adoption.

2) Special Needs Criteria

In order to be eligible for adoption assistance, the Department must determine that the child meets all three of the following criteria that comprise the definition of a child with special needs:

- A) The child cannot or should not be returned to the home of his or her parents as evidenced by:
  - i) a voluntary or involuntary termination of parental rights; and/or,
  - ii) the death of a parent.or
- B) There exists a specified factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance. These factors or conditions include:
  - i) an irreversible or non-correctable physical, mental or emotional disability; or
  - ii) a physical, mental, or emotional disability correctable through surgery, treatment or other specialized services; or
  - iii) the child is one year of age or older; or
  - iv) the child is a member of a sibling group being adopted together where at least one child meets one of the conditions in subsections (b)(2)(B)(i) through (iii); or
  - v) the child is being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and

- C) A reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance, and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents. A documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search would not be in the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their care.

**c) Types of Adoption Assistance**

The types of adoption assistance that a family may apply for include:

1) Non-recurring Expenses

Payment for non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child, up to a maximum of \$1500 for each adopted child.

2) Monthly Payments

An ongoing monthly payment is to be determined through the discussion and negotiation process between the adoptive parents and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the parent's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family upon entry of the final order of adoption unless the child is an unlicensed relative placement. In such a case, upon entry of a final order or adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the adoption assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. A non-custodial parent may request notice of periodic reviews or subsequent amendments to the adoption assistance agreement regarding their children.

3) A Medicaid card.

4) Needs Not Payable through Other Sources

- A) Payment may be made for physical, emotional and mental health needs not payable through insurance or public resources (e.g., other

State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the entry of the final order of adoption. Payment shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what are usual, customary, and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.

- B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the adoption assistance agreement or can be documented as a pre-existing condition that was unknown at the time of the agreement by a medical provider.

5) Therapeutic Day Care

Therapeutic day care is available only for children who are determined to have a disability that requires special educational services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that such services will begin, has approved the requested services, and a contract has been executed (when applicable).

6) Employment Related Day Care

Payment for day care for children under the age of three years may be made if the adoptive parent is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

7) College Scholarships and the Education and Training Voucher Program

Children who are receiving adoption assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships are awarded by the Department each year to high school or high school equivalent graduates. Youth who are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.

8) **Conditional Adoption Assistance**

Conditional adoption assistance is available to children adopted before February 1, 2004. To be eligible for conditional adoption assistance, the child must meet all of the eligibility requirements for adoption assistance and have a documented disability or risk factor not evident at the time of the adoption but that may require intervention, treatment or services in the future.

**d) Adoption Assistance Agreement**

The adoption assistance agreement shall be signed prior to the entry of the final order of adoption. The types, amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parents prior to the entry of the final order of adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. This payment shall not exceed the amount the child received in his or her current foster family home upon entry of the final order of adoption unless the child is in an unlicensed relative placement. In such a case, upon entry of the final order of adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The adoption assistance agreement shall remain in effect, regardless of where the adoptive parents currently reside and shall contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move. The adoptive parents may request a change in their child's subsidy due to a change in the family or child's circumstances. All changes and/or services are subject to periodic review and authorization by the Department.

**e) Notification Requirements by Adoptive Parents**

The adoptive parent shall notify the Department no later than 30 days after any of the following occurrences:

- 1) the child is no longer the legal responsibility of the adoptive parents;
- 2) the adoptive parents no longer financially support the child;
- 3) the child graduates from high school or equivalent;
- 4) there is a change of residential address or mailing address of the adoptive parents or the child;
- 5) the child dies;
- 6) the child becomes an emancipated minor;
- 7) the child marries;
- 8) the child enlists in the military; or

- 9) the child's custodial status changes.
- 10) If the child was adopted before July 1, 2017, or was younger than 16 years of age when the adoption was finalized on or after July 1, 2017, the adoptive parent is also required to notify the Department no later than 30 days after the child completes their secondary education or a program leading to an equivalent credential.
- 11) If the child was adopted after July 1, 2017 and was 16 years of age or older when the adoption was finalized and the child reaches the age of 18, the adoptive parent is also required to notify the Department no later than 30 days of the child's participation in any of the following:
  - A) the child is completing secondary education or a program leading to an equivalent credential;
  - B) the child is enrolled in an institution which provides post-secondary education or a vocational program;
  - C) the child is participating in a training program or activity designed to promote, or remove barriers, to employment;
  - D) the child is employed at least 80 hours per month; or
  - E) the child is incapable of doing any of the above due to a medical condition.

**f) Notification Requirements by the Department**

The Department shall provide adoptive parents of children adopted with adoption assistance with information about the Department's post-adoption search and reunion services, including information about accessing these services, at least once each year until adoption assistance payments cease. Youth who were adopted with adoption assistance shall be provided this same information within 30 days after his or her eighteenth birthday.

**g) Periodic Reviews**

The Department shall mail annually a **CFS 1800-Q, Adoption Assistance/Subsidized Guardianship Medicaid Information** form, and the **Annual Notification Letter** to the adoptive parent(s), which will facilitate the adoptive parent's communication with the Department.

**h) Termination of Adoption Assistance**

The adoption assistance shall terminate when the Department has determined that one of the following has occurred:

- 1) The terms of the adoption assistance agreement are fulfilled.
- 2) The adoptive parents have requested that the adoption assistance permanently stop.
- 3) The adoptive parents are no longer legally or financially responsible for the child.
- 4) The child becomes an emancipated minor.
- 5) The child marries.
- 6) The child enlists in the military.
- 7) If the adoption was finalized before July 1, 2017, or the child was under the age of 16 when the adoption was finalized on or after July 1, 2017, assistance will terminate when:
  - A) the child reaches age 18;
  - B) a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or
  - C) a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the adoption and documented prior to the youth's 18th birthday reaches age 21.
- 8) For children who were 16 years of age or older when the adoption was finalized on or after July 1, 2017, the adoption assistance terminates at age 21. Between the ages of 18 and 21, the adoption assistance payments may stop and start based on the child's compliance with, and the adoptive parent's confirmation of the requirements listed below (failure of the adoptive parent to provide annual written confirmation will cause the subsidy payment to stop):
  - A) the child is completing secondary education or a program leading to an equivalent credential;
  - B) the child is enrolled in an institution which provides post-secondary education or a vocational program;
  - C) the child is participating in a program or activity designed to promote or remove barriers to employment;
  - D) the child is employed at least 80 hours per month; or

- E) the child is incapable of doing any of the above due to a medical condition.

If the child later meets one of the requirements listed (A-E) above, the payment may be restarted following notification of the Department.

- 9) The adoptive parents die.  
10) The adoptive parents' parental rights are terminated.  
11) The child dies.

**i) Appeal of Department Decisions**

Adoptive parents may appeal the following Department decisions in accordance with 89 Ill. Adm. Code 337, Service Appeal Process:

- 1) The Department failed to advise the potential adoptive parents about the availability of adoption assistance to children under the care of the Department;
- 2) The adoptive parents disagree with the Department's determination that a child is ineligible for adoption assistance;
- 3) The Department's denial of Title IV-E adoption assistance eligibility to a child for whom it does not have placement and care responsibility;
- 4) Inaction on the part of the Department on a Title IV-E adoption assistance eligibility determination request;
- 5) Adoption assistance or a specific component of adoption assistance was denied;
- 6) Relevant facts regarding the child were known by the Department and were not presented to the adoptive parents prior to the finalization of the adoption;
- 7) The Department denies the adoptive parents request to modify the adoption assistance agreement; or
- 8) An adoption assistance agreement has been amended, suspended or terminated without the concurrence of the adoptive parent.

**IV. REVISED FORMS**

The following forms have been revised and may be found on the "T" drive and D-net as usual;

- CFS 1800-C-A, Adoption Assistance Agreement;
- CFS 1800-C-A-Interim, Interim Adoption Assistance Agreement;
- CFS 1800-B-A, Adoption Assistance Application; and
- CFS 1800-T-A, Adoption Assistance Case Record Checklist.

## **V. QUESTIONS**

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or e-mail to OCFP on Outlook. Persons and agencies not on Outlook can e-mail questions to [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

## **VI. FILING INSTRUCTIONS**

Please remove Policy Guide 2017.11 found immediately following Rule Section 302.310 and replace with this Policy Guide. Please remove Policy Guide 2017.11 found immediately following Procedures 302.300 and replace with this Policy Guide.