



North Carolina Department of Health and Human Services
Division of Social Services

325 North Salisbury Street • Raleigh, North Carolina 27603
Courier # 56-20-25

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Sherry S. Bradsher, Director
(919) 733-3055

November 16, 2010

DEAR COUNTY DIRECTOR OF SOCIAL SERVICES

ATTENTION: ALL CHILD WELFARE STAFF AND COMMUNITY PARTNERS

**SUBJECT: FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTION
ACT OF 2008 (PUBLIC LAW 110-351) SUMMARY**

This letter serves as a summary of the Division's progress of implementing the various provisions of the Fostering Connections to Success and Increasing Adoption Act of 2008 (Public Law 110-351) to update county departments of social services, as well as community partners. It should be noted that many aspects of the act are evolutionary with respect to implementation timetable. Please note the date of this letter, as you bear in mind the Division and all parties are making changes as quickly as possible.

- **Title IV-E plan requirements for notice to relatives of removal:** The law adds a new plan requirement that agencies exercise due diligence to identify and notify all adult relatives of a child of the relatives' options to become a placement resource for the child within 30 days of the child's removal.

Policy has been revised, a form was created to facilitate notification, and both were communicated to counties. Some of the policy changes can be found at:

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/CSs1201c1-02.htm#P20_269

<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408.htm>

<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1412-03.htm>

- **Title IV-E plan requirements for school attendance assurance:** The law adds a new plan requirement that each child receiving a title IV-E foster care, adoption or guardianship payment is a full-time elementary or secondary school student, or is incapable of attending school due to a documented medical condition.
- **Foster Care Policy: North Carolina policy includes the following:** Long standing policy requires county departments of social services to ensure that every child in foster care who has attained the minimum age for compulsory school attendance under state law must be enrolled as a full-time elementary or secondary school student or has completed secondary school. "Elementary or secondary school student" is defined to include a child that is (1) enrolled in an institution which provides elementary or secondary education in compliance with state law, (2) instructed in elementary or secondary education at home in accordance with state law on home schools, (3) in an independent study program in elementary or secondary education that is administered by the local school or school district and is in accordance with state law and, or (4) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the child's case plan. This policy can be found at:
http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/CSs1201c5-05.htm#P166_30888

- **Adoption Assistance Policy: North Carolina policy on this issue includes the following:**

Counties must ensure that every child who receives adoption assistance and is of the compulsory age (seven to sixteen) for school attendance under state law is enrolled as a full-time elementary or secondary school student or has completed secondary school. "Elementary or secondary school student" is defined to include a child that is (1) enrolled in an institution which provides elementary or secondary education in compliance with state law, (2) instructed in elementary or secondary education at home in accordance with state law on home schools, (3) in an independent study program in elementary or secondary education that is administered by the local school or school district and is in accordance with state law. If none of these are applicable, documentation must support that the child is incapable of attending school on a full-time basis due to a documented medical condition, physical and or therapeutic condition(s). Documentation shall be maintained in the adoption assistance case record. This policy can be found at:

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-78/man/Section%201600.htm#P899_79387

- **Travel to school added to foster care maintenance payment definition:** The law amends the definition of a "foster care maintenance payment" to include the cost of reasonable travel for the child to remain in the same school he or she was attending prior to placement in foster care.

Current reimbursement policy allows county departments of social services to receive additional reimbursement of the federal portion, based on the current FMAP rate. The Division continues to explore additional resources to facilitate school transportation whenever feasible.

The definition of foster care maintenance payments now includes the cost of reasonable travel for the child to remain in the same school he or she was attending prior to placement in foster care. The payment may include these costs regardless of whether the child is in his or her initial foster care placement or subsequently moves to another foster care placement. The county DSS has the discretion to determine what is considered reasonable travel in examining factors such as cost, distance, and length of travel. The county DSS may decide whether to include the costs of this transportation in a child's foster care maintenance payment. The county DSS agency may include the cost of reasonable travel for the child to remain in the same school in the child's foster care maintenance payment paid to the child's provider or may make a separate payment directly to the transportation provider. While the act allows these costs under the definition of maintenance, transportation costs associated with the child's attendance at his or her school of origin remain allowable administrative costs under title IV-E because such transportation is considered case management and is therefore necessary for the proper and efficient administration of the title IV-E plan.

The county DSS agency should develop a plan for the provision of this service for all children in their care. All children should be allowed to remain in their school of origin unless it is clearly not in their best interests to do so. The county agency is responsible for ensuring the safety of the child at all times that transportation is being provided. Reimbursement for these expenses may be made by way of the DSS-5094 by including the cost of the transportation in the payment amount. This is done in the same way as a clothing allowance is handled on the DSS-5094. Please note that if the child is IV-E eligible, reimbursement to the county will be at the full amount. If the child is not IV-E eligible, the reimbursement will be capped when the reimbursement reaches the maximum allowable rate.

- **Educational stability case plan requirement:** The law amends the case plan provisions by adding a requirement for a plan to ensure the educational stability of the child in foster care. Strengthened policy, added to consultation agenda and communicated to counties can be found at:

<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/CSs1201c5-05.htm#TopOfPage>

- **Title IV-E plan requirements for sibling placement:** The law adds a new plan requirement that agencies must make reasonable efforts to place siblings removed from their home in the same foster care, adoption or guardianship placement, or facilitate visitation or ongoing contacts with those that cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings to do so.

Foster Care: North Carolina policy includes the following:

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/CSs1201c4-05.htm#P242_24298

In keeping with longstanding policy, siblings shall be placed together, whenever possible, unless contrary to the child's developmental, treatment or safety needs. Through the eyes of the child, it is traumatic to be removed from parents and home. To be separated from siblings adds to the impact of loss and trauma. When siblings are able to remain together in an out of home placement, there can be a greater sense of continuity of family. Frequently, older children will have had some responsibilities for caring for younger siblings when in their own home, and they may feel worried and protective regarding these siblings if separated from them. Likewise, the younger siblings may have looked to their older siblings for comfort and guidance.

Because it is important to place siblings together, the agency shall recruit and prepare foster families who are willing to take sibling groups. Foster families need special preparation regarding issues of sibling relationships among children in foster care, as well as the impact of separation and loss on those relationships.

There are times when it is not in the child's best interest to be placed with siblings because of each child's developmental, treatment, and/or safety needs. In some situations, for example, children may be endangered by unsupervised contact with their more aggressive or sexually active sibling. When this is this case, it is the responsibility of the agency to provide for frequent supervised or unsupervised visitation and ongoing contact for the siblings in order to maintain their ties to one another. Social workers shall document the basis for the decision not to place siblings together.

Adoption: North Carolina policy on this issue includes the following:

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-50/man/CSs1301-01.htm#P89_5279

The possibility that adoption may become the plan for sibling groups should be taken into consideration at the time such groups of children enter the foster care system. Every effort should be made to place sibling groups in the same foster home or, if not possible, to continue their frequent contact with each other. A decision to separate them should be made only after thorough assessment of the children's needs and the availability of appropriate resources for placement. Siblings shall be placed together whenever possible unless contrary to the child's developmental, treatment, and/or safety needs. If siblings are separated, frequent and regular on going contact should be arranged and encouraged.

Information and registration of families and children can be found at:

<http://adoptnckids.org>

<http://www.adoptuskids.org>

- **Title IV-E plan requirement to inform parents of adoption tax credit:** The law adds a new plan requirement that agencies must inform prospective adoptive parents of the adoption tax credit.

The following has been added to Adoption Assistance policy in the Child Welfare Funding Manual (Chapter XIII of the Family Services Manual):

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-78/man/Section%201600.htm#P899_79387

The Division of Social Services provides basic information annually to adoption assistance recipients by inserting a notification with the monthly Adoption Assistance checks for January and February.

For specific information, please refer to the IRS website

<http://www.irs.gov/newsroom/article/0,,id=228301,00.html>

This website will provide information related to the Adoption Tax Credit Program. Adoption assistance payments for children with special needs are not countable income for tax purposes. Adoptive parents should keep records, including adoption assistance agreement, to provide proof that the child receives adoption assistance because of his or her special needs.

Adoptive parents **may** be able to take a tax credit for qualifying expenses paid to adopt an eligible child (including a child with special needs). In addition to the credit, certain amounts paid by an employer for qualifying adoption expenses may be excludable from gross income. For both the credit or the exclusion, qualifying expenses include reasonable and necessary adoption fees, court costs, attorney fees, traveling expenses (including amounts spent for meals and lodging while away from home), and other expenses directly related to and for which the principal purpose is the legal adoption of an eligible child.

Currently, an eligible child must be under 18 years old, or be physically or mentally incapable of caring for him or herself. The adoption credit or exclusion cannot be taken for a child who is not a United States citizen or resident unless the adoption becomes final. A taxpayer also may be eligible to take an increased credit or exclusion for expenses related to the adoption of a child with special needs if the child otherwise meets the definition of qualifying child, is a United States citizen or resident and a state determines that the child cannot or should not be returned to his or her parent's home and probably will not be adopted unless assistance is provided. The credit and exclusion for qualifying adoption expenses are each subject to a dollar limit and an income limit. Persons should be referred to Web site at <http://www.irs.gov/taxtopics/tc607.html> or by calling the IRS at Toll-Free, 1-800-829-1040.

- **Title IV-E plan case-by-case licensing waivers for relatives:** The law explicitly permits a licensing agency to waive on a case-by-case basis a non-safety licensing standard for a relative foster family home.

North Carolina policy currently allows waiver of non-safety licensing standards for relatives pursuing licensure. Counties are encouraged to consider requesting waivers for non-safety related issues that may currently be preventing relatives from becoming licensed. The issuance of a waiver does not effect the eligibility of the child.

The specific Administrative Rules related to a waiver of family foster home licensure can be found at: <http://reports.oah.state.nc.us/ncac/title%2010a%20-20health%20and%20human%20services/chapter%2070%20-%20children%27s%20services/subchapter%20e/10a%20ncac%2070e%20.1001.html>

- **Title IV-B plan health oversight and coordination plan requirements:** The law amends the existing title IV-B plan requirement that States, in coordination with the State Medicaid agency, develop a plan for ongoing oversight and coordination of health care services for children in foster care, including mental health and dental health needs.

The Division is currently working with the Division of Medical Assistance to develop this ongoing oversight and coordination. The request is to modify the current 'opt-in' approach to Carolina Access to an 'opt-out' approach. Additionally, the 5120 is being modified to collect the medical home of the child.

- **Transition plan for emancipating youth:** The law amends the case review system to create a new requirement that during the 90-day period prior to the youth's emancipation, the caseworker must develop a personalized transition plan as directed by the youth. As youth age out of foster care, counties are required to discuss with the youth the need to sign a Health Care Power of attorney. Revised Policy can be found at: <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/CSs1201c7-07.htm#TopOfPage>
- **Indian Tribes Foster Care and Adoption Access:** Allows tribes to access IV-E funding directly. Currently, Indian tribes are required to have an agreement with the state IV-E agency.

The Eastern Band of the Cherokee Nation has elected to not pursue this option at present.

- **AFDC will be "delinked" for Adoption Assistance Eligibility:** The law eliminates the provision that the home of removal must meet the AFDC income guidelines through a phased in process based on the age of the child, in 2 year increments, ending in 2018.

Adoption Assistance eligibility policy and forms have been revised and training has been conducted state wide.

http://info.dhhs.state.nc.us/olm/manuals/dss/csm-78/man/Section%201600.htm#P29_2188

- **Guardianship Assistance Payments:** States have been given the option to use federal funds for kinship guardianship payments for children placed with relative caretakers. North Carolina is continuing to explore this optional provision of Fostering Connections that provides for IV-E eligibility for Guardianship Assistance Payments.

If you have any questions or feedback, please contact the Child Welfare Services section of the Division of Social Services.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Kelley". The signature is written in a cursive style.

Kevin Kelley, Interim Chief
Child Welfare Services

CC: Sherry Bradsher
Jack Rogers
Child Welfare Services Team Leaders

CWS-26-10