

ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children, Youth and Families

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PROGRAM INSTRUCTION

TO: Indian Tribes and Tribal Organizations and State Child Welfare Agencies

SUBJECT: Deadline for Fiscal Year 1984 Certification of Eligibility Under Section 427 of the Social Security Act for Indian Tribes and Indian Tribal Organizations (ITO)

STATUTORY AND REGULATORY REFERENCES: Sections 421, 422, 423, 427, 428, 472 and 475 of the Social Security Act; 45 CFR 1357.25 and 45 CFR 1357.40.

BACKGROUND: Indian Tribes and Indian Tribal Organizations (ITO) located in States eligible to receive funds under section 427 of the Social Security Act may certify eligibility for funds under section 427.

INSTRUCTION: Section 427 requires that certain foster care protections must be in place if a State or Tribe is to be eligible for additional funds over its share of \$141 million. Compliance with the law requires actual operation of the service programs and other protections to eligible children and their families.

To meet the requirements of section 427(a) and to be eligible for additional funds for fiscal year 1984, the inventory of Indian children in foster care required in section 427(a)(1) must be completed and the Statewide information system described in section 427(a)(2)(A) must be in operation. The case review system, listed as a requirement under section 427(a)(2)(B) and defined in section 475(5), must be implemented and operating to the extent that all children in foster care under the supervision of the Indian Tribe or Tribal Organization have case plans and receive timely reviews by September 30, 1984.

The ITO's service program to help children return to their families or to be placed for adoption (section 427(a)(2)(C)) must be in operation and arrangements must be in place to assure appropriate delivery of services to all children and families in need of them.

To be eligible for fiscal year 1984 funds, ITOs initially certifying eligibility in fiscal year 1984 must have implemented and be operating the required protections and service programs by September 30, 1984. Section 422 requires that for title IV-B funds to be made available, the Tribe or ITO must have a plan for child welfare services which has been jointly developed by the Secretary and the Tribe or ITO and meets the requirements of this section. Any funds awarded under section 427 are title IV-B funds and are subject to the joint planning requirement. This requirement may have been met during development of the Long Range Strategy of the Child Welfare Services Plan or can be met through a jointly developed addendum to the Long Range Strategy.

ACTION REQUIRED: Tribes or ITOs which have not previously certified eligibility for funds under section 427 and which have implemented and are operating the protections, or will have implemented them and have them operating in fiscal year 1984, must submit the following:

1. The "Certification of Eligibility for Additional Funds under section 427 of the Social Security Act", (attached) in which the ITO certifies that it is meeting the requirements of section 427(a); The original form and one copy should be submitted to the Regional Program Director for Children, Youth and Families. An additional copy should be sent directly to:

Mr. Keith Moon
Associate Commissioner
Children's Bureau
P.O. Box 1182
Washington, D.C. 20013

2. The original revised Annual Budget Request (CWS-101) should be sent to:

Formula Grants Branch
Management Services Division
Administration for Children, Youth and Families
P.O. Box 1182
Washington, D.C. 20013

One copy should be sent to the Regional Program Director for Children, Youth and Families. The forms must be received no later than August 15 for funds to be available during fiscal year 1984. Any Tribe or ITO whose certification is not received by August 15, 1984 will not be eligible for funds available over \$141 million for fiscal year 1984. Also, dollars not requested by August 15 are available for reallocation. Tribes and ITOs certifying eligibility under section 427 will be reviewed by Federal staff in fiscal year 1985 to verify eligibility. Tribes and ITOs which certified eligibility under section 427 in fiscal year 1983 will be reviewed in fiscal year 1984. A Tribe or ITO with no children in foster care for whom it has placement and care responsibility may still be eligible for section 427 funds. However, the administrative procedures must be available to provide the required protections to any child who might come into care.

INQUIRIES TO: Regional Program Directors,ACYF
Lucy C. Biggs
Acting Commissioner
Administration for Children, Youth and Families

[Attachment A](#)- State Certification of Eligibility for Additional Funds
Under Section 427 of the Social Security Act

Attachment A

**STATE CERTIFICATION OF ELIGIBILITY FOR ADDITIONAL FUNDS
UNDER SECTION 427 OF THE SOCIAL SECURITY ACT
(AS AMENDED BY P.L. 96-272, THE ADOPTION ASSISTANCE AND CHILD
WELFARE ACT OF 1980)**

State of

I certify that (name of designated agency) meets the requirements of section 427(a) specified below:

- A. Has Completed an Inventory 427(a)(1) An inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, and
 - a. determined the appropriateness of, and necessity for, the current foster care placement, whether the child can or should be returned to his or her parents or should be freed for adoption; and
 - b. determined the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship.
- B. Has Implemented and is Operating a Statewide Information System 427(a)(2)(A) A statewide information system from which the following data can readily be determined for every child currently in foster care and all children who have been in foster care in the preceding 12 months:
 - a. demographic characteristics;
 - b. legal custody status;
 - c. location; and
 - d. placement goals.
- C. Has Implemented and is Operating a Case Review System [The language in this section varies somewhat from that used in Section 475 in the interim State Plan for title IV-E, in which the provisions are slightly more abbreviated. There is no variation in the substance of the provisions.]
 - 1. Case Plan 471(a)(16) 1. For each child receiving foster care maintenance payments, there is a case plan (as defined in Section 475 of the Act) which is a written document including at a minimum 475(1)

- a. a description of the type of home or institution in which the child is to be placed;
- b. a discussion of the appropriateness of the placement and how the responsible agency plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1);
- c. *a plan for assuring that the child receives proper care and that services are provided to the parents in order to improve the conditions in the parents' home and to facilitate the child's return to his or her own home or the permanent placement of the child;
- d. a plan for assuring that services are provided to the child and foster parents in order to address the needs of the child while in foster care; and
- e. a discussion of the appropriateness of the services that have been provided to the child under the plan. 475(5)(A)
- f. The case plan for each child is designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parent's home consistent with the best interests and special needs of the child. *Section 472(a)(1) - "The removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in Section 471(a)(15) have been made."

2. Case Review

The State Agency has a case review system which meets the requirements of Section 475(5) of the Act and assures that 475(5)(B)

- a. a review of each child's status is made no less frequently than once every six months either by a court or by an administrative review to
 1. determine the continuing need for and appropriateness of the placement,
 2. determine the extent of compliance with the case plan,
 3. determine the extent of progress made toward alleviating or mitigating the cause necessitating the placement in foster care, and
 4. project a likely date by which the child may be returned home or placed for adoption or legal guardianship.
- b. 475(6) If an administrative review is made, the following requirements specified in Sec. 475(6) are met.
 1. the review is open to the participation, of the parent(s) of the child, and
 2. the review is conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parent(s) who are the subject of the review.
- c. 475(5)(C)The State Agency applies procedural safeguards with respect to each child in foster care under supervision of the State which include:

1. a dispositional hearing held in a family or juvenile court or another court (including a tribal court) of competent jurisdiction or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and periodically thereafter during the continuation of foster care) to determine the future status of the child (including whether child should be returned to the parent(s), should be continued in foster care for a specific period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long term basis), and
2. procedural safeguards with respect to parental rights pertaining to the removal of the child from his or her parent's(s') home, to a change in the child's placement and to any determination affecting visitation privileges of the parent(s).

D. Has Implemented and is Operating a System of Reunification and other Permanent Placement Services

427(a)(2)(C) A services program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship. The State Agency further certifies that in addition to the above requirements it

// has implemented

// has not implemented

the requirements of Section 427(b)(3) for a preplacement preventive service program designed to help children remain with their families. Section 427(b) is required for States wishing to claim FFP for children placed in foster care pursuant to a voluntary placement agreement (Sec. 472(d) of the Social Security Act as amended by Sec. 102(a)(2) of P.L. 96-272).

Date Commissioner of Single State Agency

Date Director of Single Organizational Unit