

ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children, Youth and Families

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2. Issuance Date: 03/14/85

3. Originating Office: Children's Bureau

4. Key Words: Section 427 Reviews Applicability of 45 CFR1356.21(d)

PROGRAM INSTRUCTION

TO: State Administrators of State Public Welfare Agencies and Indian Tribal Organizations Administering Title IV-B of the Social Security Act.

SUBJECT: Section 427 Reviews--Case Plan Requirements and Applicability of 45 CFR 1356.21(d) to Section 427 Compliance Reviews.

LEGAL AND RELATED REFERENCES: Sections 420, 427, 471 and 475 of the Social Security Act (the Act); 45 CFR 1356.21(d); ACYF-PI-81-07 issued July 1, 1981.

BACKGROUND: Section 427 specifies certain foster care protections and services that States must provide to be eligible for funds in addition to their share of the \$141 million available under section 420. Compliance with the law requires actual delivery of the services and protections to eligible children and their families within the time requirements specified in the statute.

On July 1, 1981, the Administration for Children, Youth and Families (ACYF) issued Program Instruction 81-07. This instruction outlined procedures for States' use in requesting funds authorized under section 427 of the Act and included a form titled "State Certification of Eligibility for Additional Funds Under Section 427 of the Social Security Act".

Among the requirements of section 427 that a State must satisfy to be eligible for additional funds is the requirement for a case plan contained in section 427(a)(2)(B) and defined in section 475.

On June 22, 1983, the final regulation implementing the provisions of title IV-B and title IV-E became effective. 45 CFR 1356.21(d) sets forth the criteria for meeting the case plan requirements contained in section 475(5) of the Act. As section 427(a)(2)(B) incorporates by reference the provisions of section 475(5), 45 CFR 1356.21(d) is applicable in the review of section 427 compliance. 45 CFR 1356.21(d) states that:

In meeting the case plan requirements of sections 471(a)(16), 475(1) and 475(5) of the Act, the State agency must promulgate policy materials and instructions for use by State and local staff to determine the appropriateness and necessity for the foster care placement of the child. The case plan for each child must:

1. Be a written document, which is a discrete part of the case record, in a format determined by the State, which is available to the parent(s) or guardian of the foster child;
2. Be developed within a reasonable period, to be established by the State, but in no event later than 60 days starting at the time the State agency assumes responsibility for providing services including placing the child;
3. Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interest and special needs of the child; and
4. After October 1, 1983, include a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family.

ACTION REQUIRED: States and Indian Tribal Organizations currently certified to receive funds under section 427 must provide documentation to Federal reviewers at the time of the section 427 review for Fiscal Year 1985 that their administrative procedures meet the requirements of 45 CFR 1356.21(d) listed above. For those States and Indian Tribal Organizations which are not due for a review in Fiscal Year 1985, the documentation is due at the time of their next 427 review. Documentation of compliance with these requirements can be done either by completing the attached form at the time of the section 427 review or by sending a letter to the Regional Office certifying that the additional requirements have been satisfied. The case record survey portion of section 427 compliance reviews will verify the implementation by the State of its administrative procedures in individual cases.

States and Indian Tribal Organizations certifying for the first time for Fiscal Year 1985 should complete the attached form along with other required documents that will be made available during Fiscal Year 1985.

EFFECTIVE DATE: October 1, 1984

INQUIRES TO: Regional Program Director, ACYF

/s/

Dodie Livingston
COMMISSIONER

[Attachment](#) - State Certification of Eligibility for Additional Funds under section 427 of the Social Security Act (revised 8/84)

Attachment

Revised 8/84

**STATE CERTIFICATION OF ELIGIBILITY FOR ADDITIONAL FUNDS
UNDER SECTION 427 OF THE SOCIAL SECURITY ACT
(AS ENACTED 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. determine 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 within the preceding 12 months:
- a. demographic characteristic:
 - 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 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 written case plan (as defined in section 475 of the Act) which is a discrete part of the case record and available to the parent(s) or guardian of the foster child.
- 475(1)
45 CFR
1356.21(d) 2. The written case plan is developed within a reasonable period, but no later than 60 days from the time the State agency assumes responsibility for providing services, including placing the child.
3. The written case plan includes at a minimum the following:
- a. a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family;
 - b. a description of the type of home or institution in which the child is to be placed;
 - c. 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);*
 - d. a plan for assuring that the child receive proper care and that services are provided to the parents in order to improve the conditions in the parents' home to facilitate the child's return to his or her own home or the permanent placement of the child;
 - e. 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
 - f. a discussion of the appropriateness of the services that have been provided to the child under the plan.
- 475(5)(A)
45 CFR
1356.21(d) g. 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 interest 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.

475(6)

- b. If an administrative review is made, the following requirements specified in section 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.

475(5)(C)

- c. The State agency applies procedural safeguards with respect to each child in foster care under supervision of the State which include:
 1. a disposition 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 the 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 requirement it

// has implemented

// has not implemented

the requirements of section 427(b)(3) for a preplacement preventative service program designed to help children remain with their families. Section 427(b) permits a State to transfer funds from title IV-E to title IV-B where the conditions in section 474(c)(4)(C) apply; claim FFP for a program of voluntary foster care placements under title IV-E; and avoid a reduction in funds to its Fiscal Year 1979 level for any fiscal year after any two consecutive fiscal years in which \$266 million is appropriated for title IV-B.

Date	Commissioner of Single State Agency
Date	Director of Single Organizational Unit

TRIENNIAL REVIEW DECISION TABLE III

Review Supervisor			State			
Telephone Number			Dates			
1	2	3	4	5	6	7
Case	Number	Acceptance	Unacceptable*	Rejection	Reviewer's	Supervisor's

Record I.D.	Records Reviewed	Number	Actual Cumulative	Number	Initial	Initial
	1	-		-		
	2	-		-		
	3	-		-		
	4	-		-		
	5	-		-		
	6	-		-		
	7	-		-		
	8	-		-		
	9	-		-		
	10	-		10		
	11	-		11		
	12	-		11		
	13	-		11		
	14	-		11		
	15	-		11		
	16	-		11		
	17	-		11		
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146	14	30
147	14	30
148	14	31
149	15	31
150	15	31

TRIENNIAL REVIEW DECISION TABLE IV

Review Supervisor

State

Telephone Number

Dates

1	2	3	4	5	6	7
Case Record I.D.	Number Records Reviewed	Acceptance Number	Unacceptable* Actual Cumulative	Rejection Number	Reviewer's Initial	Supervisor's Initial
	1	-		-		
	2	-		-		
	3	-		-		
	4	-		-		
	5	-		-		
	6	-		-		
	7	-		7		
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72	6	17
73	6	17
74	7	17
75	7	17
76	7	17
77	7	17
78	7	17
79	7	18
80	7	18
81	8	18

Date

Review Supervisor (Signature)

*Accept = 0

Reject = 1