

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: Administrators of State Public Welfare Agencies Administering Title IV-E of the Social Security Act

SUBJECT: Title IV-E and Title IV-B Requirements - Independent Living Initiatives Program

LEGAL AND RELATED REFERENCES: Sections 427, 470, 471(a)(16), 474(a)(4), 475(1), 475(5)(C) and 477 of the Social Security Act; 45 CFR 1356.21(d)(3); and ACYF-PI-88-07, issued August 29, 1988

BACKGROUND: The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), through the addition of section 477 to title IV-E of the Social Security Act (SSA), provided Federal payments to States for fiscal years 1987 and 1988 for service programs and activities to assist eligible children (age 16 and over) in title IV-E foster care to make the transition from foster care to independent living. In addition, P.L. 99-272 amended section 470 to authorize funds for independent living programs under title IV-E; added section 474(a)(4) to include payments to States for transitional independent living programs; and amended section 475(1) to include an independent living case plan requirement. The Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) in section 8104(e), amended section 475(5)(C) to assure that dispositional hearings for a child who has attained age 16 address the services needed to assist the child to make the transition from foster care to independent living and made certain other changes in section 477. Effective November 10, 1988, States are permitted to provide title IV-E independent living services to non-title IV-E eligible youth over the age of 16 who are in foster care.

PURPOSE: The purpose of this Program Instruction (PI) is to provide information and instruction to the States regarding:

1. the requirement for a written transitional independent living case plan for title IV-E eligible children over the age of 16 and for all other children participating in the Independent Living (IL) program;
2. the requirement that dispositional hearings for a child who has attained age 16 address the services needed to assist the child to make the transition from foster care to independent living; and
3. the actions States must take with regard to eligibility for funds under titles IV-E and IV-B (section 427) of the Social Security Act.

As the States develop their Child Welfare State Plans (CWSP), we are also encouraging, but not requiring, that they describe the services being planned and provided for foster children age 16 and over who are in need of transitional independent living programs and services.

INFORMATION: P.L. 99-272 amendments require that States make certain changes in the documentation of their title IV-E State Plans in relation to the case plan requirements for children age 16 or over. In addition, P.L. 99-272 and P.L. 100-647 amendments impact upon section 427 eligibility.

P.L. 99-272 amendments affect section 475 (1) by adding the following:

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

P.L. 100-647 amendments affect section 475(5)(C) by adding the following to the dispositional hearing definition under procedural safeguards: and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living.

INSTRUCTION: In order to continue to be eligible for Federal financial participation under title IV-E and title IV-B, the States must comply with the following statutory requirements:

1. (1) Title IV-E - State Plan Requirements The State Plan requirement in section 471(a)(16) for the development of a case plan for each child receiving foster care maintenance payments under title IV-E is affected by reference to section 475(1).

Section 475(1) has been amended to require that States include, where appropriate, a written description in the case plan of the programs and services which will help the child, age 16 or over, to prepare for the transition from foster care to independent living.

A Program Instruction (ACYF-PI-88-07) issued August 29, 1988 required States to revise their title IV-E State plans based on amendments to sections 471, 472, 473 and 475; regulations for title IV-E; and applicable Federal policy issuances. If the State has already submitted an amended title IV-E State Plan which includes the Independent Living case plan changes and appropriate documentation, this will be sufficient to meet the amended section 475(1) requirements. If the State has not yet completed an amended title IV-E

State Plan, with documentation to verify the new procedures related to the section 475(1) requirements, this should be submitted to the designated Regional Administrator within 60 days of this issuance. A listing of the OHDS Regional Administrators is attached (Attachment A).

2. Title IV-B - Administrative Procedures The State's administrative procedures must be reviewed in relation to the new case plan and dispositional hearing requirements and amended, as appropriate, to ensure continuing eligibility for section 427 funds. Documentation to verify these procedures must be submitted to the appropriate OHDS Regional Administrator.
3. Title IV-B - Section 427 Certification The definitions of the terms "case plan" at section 475(1) and "case review system" at section 475(5) are applicable to all children in foster care under the responsibility of the State agency. Amended language on page 3 of the State's Certification of Eligibility for Additional Funds Under Section 427 of the Social Security Act (Attachment B) states that the case plan for a child age 16 or over must include, where appropriate, a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

Amended language on page 5 of the Certification of Eligibility for Additional Funds Under Section 427 of the Social Security Act states that the dispositional hearing held to determine the future status of the child must, in the case of a child who has attained age 16, also determine the services needed to assist the child to make the transition from foster care to independent living.

In order to assure compliance with the new procedures, we have revised pages three and five of the Certification of Eligibility for Additional Funds Under Section 427 of the Social Security Act (Attachment B). Each State receiving section 427 funds is required to submit amended certification pages three and five (which include a new section (g) on page three and new language in section (c)(1) at the bottom of page 5). The revised pages three and five of the Certification (attached) must be signed by the State Certifying Official in States that have certified eligibility for section 427 funds and submitted with appropriate documentation to the designated Regional Administrator within 60 days of the date of this issuance.

EFFECTIVE DATE: The requirements under section 475(1) were effective with the enactment of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985. The requirements under section 475(5)(C) were effective October 1, 1988. The revised requirements (Attachment B) for the section 427 (title IV-B) certification will be effective upon signature and date submitted by the authorized State official. This revised certification must be submitted within 60 days of the date of this issuance.

INQUIRIES TO: OHDS Regional Administrators
Regions I - X
Wade F. Horn, Ph.D.
Commissioner

Attachments:

[Attachment A](#)- Regional Administrators Office Of Human Development Services

[Attachment B](#)- State Certification Of Eligibility For Additional Funds Under Section 427 Of The Social Security Act

Attachment A

Regional Administrators Office Of Human Development Services

Dr. A. Kenton Williams
Regional Administrator, Region I
Room 2000, JFK Building
Boston, Massachusetts 02203

Mr. Thomas DePippo
Regional Administrator, Region II
Federal Building
26 Federal Plaza
New York, New York 10278

Mr. Richard Spitzborg
Regional Administrator, Region III
Box 13716
3535 Market Street
Philadelphia, Pennsylvania 19109

Ms. Nell Ryan
Regional Administrator, Region IV
101 Marietta Tower, Suite 903
Atlanta, Georgia 30323

Ms. Kay Willmoth
Regional Administrator, Region V
105 West Adams Street
21st Floor
Chicago, Illinois 60603

Mr. Marvin Layne
Regional Administrator, Region VI
1200 Main Tower Building
Dallas, Texas 74202

Ms. Linda J. Carson
Regional Administrator, Region VII
601 E. 12th Street, Room 384
Kansas City, Missouri 64106

Mr. David Chapa
Regional Administrator, Region VIII
Federal Office Building
1961 Stout Street, Room 1194
Denver, Colorado 80294

Ms. Sharon Mckay
Regional Administrator, Region IX
50 United Nations Plaza, Room 450
San Francisco, California 94102

Mr. Edward Singler
Region X
Blanchard Plaza
2201 Sixth Avenue
Seattle, Washington 98121

Attachment B

**STATE CERTIFICATION OF ELIGIBILITY FOR ADDITIONAL FUNDS UNDER
SECTION 427 OF THE SOCIAL SECURITY ACT**

(Amended Page 3)

- c. 475(1)a discussion of the appropriateness of the 45 CFR 1356.21(d) placement and how the responsible agency plans (Continued) 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 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 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;
- f. a discussion of the appropriateness of the services that have been provided to the child under the plan; and
- g. where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

- h. 475(5)(A) The case plan for each child is designed 45 CFR 1356.21 to achieve placement in the least restrictive (d)(3) (most family like) setting available and in close proximity to the parents' 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."

State of _____

I certify that _____ (Name of designated agency) meets the requirements of section 427(a) specified above:

Date Commissioner of Single State Agency

Date Director of Single Organizational Unit

(Amended Page 5)

- b. 475(6) 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 parents 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 parents who are the subject of the review.
- c. 475(5)(C) The State agency/Tribe applies procedural safeguards with respect to each child in foster care under supervision of the State or Tribe 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 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, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living, and

State of _____

I certify that _____ (Name of designated agency) meets the requirements of section 427(a) specified above:

Date Commissioner of Single State Agency

Date Director of Single Organizational Unit