

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 14: Adoption Assistance and Guardianship Assistance	Effective Date: July 1, 2021
	Section 08: Negotiations for Adoption Assistance	Version: 6

POLICY OVERVIEW

The Indiana Adoption Assistance Program (AAP) will be provided for eligible children, to assist adoptive parents with their obligation to meet the children’s needs. The goal of this program is to promote permanency in an efficient and expeditious way, for children who may otherwise have their permanency delayed due to special needs.

PROCEDURE

The Indiana Department of Child Services (DCS) will provide ongoing financial and other assistance through AAP. Eligible children may receive a periodic payment, as negotiated between the prospective adoptive parent and DCS. Eligibility for Medicaid and the reimbursement of appropriate Non-Recurring Adoption Expenses (NRAE) are not negotiated.

It is DCS’ responsibility to determine the periodic payment amount that is appropriate in each individual case. DCS will work collaboratively with families to understand and determine the current and ongoing needs of the child being adopted and the cost of those needs. The circumstances of each family will be considered in combination with the resources available to the prospective adoptive parent in order to determine a periodic payment amount that will assist the family with integrating the child into the adoptive family. This policy outlines how such levels of assistance should be negotiated to determine the periodic payment amounts for adoption assistance applicants who are determined to be eligible for the Title IV-E Adoption Assistance Program (AAP) or the State Adoption Subsidy (SAS).

Note: The negotiated adoption assistance periodic payment amount may be for \$0, but it may not exceed the standard applicable foster care per diem amount the child would receive if the child were in foster care. Effective for adoptions finalized on or after July 1, 2021, for a child identified with needs of therapeutic or therapeutic plus while in foster care, the modified adoption assistance periodic payment (AAP and SAS) for AAP will not and for SAS cannot be less than 50% of the amount that would have been payable for the child’s care if the child were in foster care (per IC 31-19-26.5-10.5, which applies for SAS only).

Upon the completion of a Final Adoption Program Eligibility Determination form, indicating the child is eligible for AAP or SAS (whichever is applicable), DCS will meet with the prospective adoptive parent to discuss the steps and procedures for completing and finalizing the Adoption Assistance Agreement and the adoption of the child. DCS will provide the prospective adoptive parent with a copy of the following documents:

1. The notice of Final Adoption Program Eligibility Determination form;

2. An Adoption Assistance Agreement currently approved by DCS for use in AAP or SAS cases (whichever is applicable);
3. The Payment Request Information (PRI) form describing the information needed from the prospective adoptive parent(s) for consideration and discussion with DCS in negotiating and determining any periodic payment to be paid by DCS under the agreement;
4. The Request for Administrative Review-Indiana Adoption Program form for children who have been determined ineligible for either AAP or SAS, or eligible for SAS due to the determination that the child is not eligible for AAP; and
5. Other information prepared by DCS staff for consideration in determining the periodic payment amount.

Within 30 calendar days of receiving the Final Adoption Program Eligibility Determination form and accompanying documents, the prospective adoptive parent will submit all information and supporting documentation identified in the PRI to the DCS Local Office Director (LOD). The prospective adoptive parent will also submit any additional information considered relevant in determining the periodic payment. The prospective adoptive parent may request, in writing, a 15-day extension of this deadline in order to gather and assemble information relevant to this submission. An extension requested by the prospective adoptive parent may be approved by the DCS LOD or designee.

The amount of the periodic payment to be included in the Adoption Assistance Agreement will be determined through discussion and negotiation between the prospective adoptive parent and/or their attorney and DCS. Negotiations will occur through the DCS Adoption Assistance Negotiation Unit, located in the DCS Central Office. During the negotiation, the DCS LOD or designee and the designated DCS Central Office Attorney will represent DCS. The prospective adoptive parent may choose to be represented by an attorney or to participate directly in the negotiation.

DCS will negotiate the periodic payment based on an initial request submitted by the prospective adoptive parent. The prospective adoptive parent will have an opportunity to discuss the information with DCS in order to negotiate the periodic payment amount.

Negotiation of the periodic payment amount will occur and be completed within 45 calendar days after the date the DCS LOD receives the PRI response, unless an extension of the negotiation deadline has been approved by the DCS LOD or designee.

The following factors and information based on the documentation required by DCS and provided by the prospective adoptive parent will be considered in negotiating the periodic payment amount:

1. The current needs of the child and needs anticipated to occur within one (1) year after finalization of the adoption and the costs of the anticipated needs;

Note: The needs and expenses of the child that are anticipated to occur after one (1) year of the execution of the agreement may be addressed through a request to modify the agreement at the time the need and expenses arise.

2. The circumstances of the adoptive family, including their ability to provide for the child's current and reasonably anticipated future needs;
3. Resources available to the adoptive family to provide for the current and anticipated needs of the child, such as health care, post-adoption services, public education,

activities related to child development and transition to independent living, sources of income, and the availability of extended family and community resources;

4. The extent to which the identified and anticipated needs of the child may be met through services covered by Medicaid or other resources; and
5. The ability of the adoptive family to seek renegotiation and modification of the periodic payment amount for any unanticipated or unidentified changes in the child's needs or family's financial circumstances, as provided in this policy.
6. Any other specific facts pertaining to the child or adoptive family that either DCS or the prospective adoptive parent consider relevant to the goal of integrating the child into the adoptive family.

If negotiation of the periodic payment amount has not resulted in an approved agreement within 45 calendar days of DCS' receipt of the completed PRI, or other approved deadline, DCS will send a final offer letter to the prospective adoptive parent, and/or their attorney, stating the periodic payment amount that DCS agrees to pay. If the prospective adoptive parent has not submitted to DCS the completed PRI form within 45 calendar days of the date the PRI was provided to the prospective adoptive parent or any approved extension of time, the DCS Central Office Attorney will send a \$0 final offer letter to the prospective adoptive parent and/or their designated attorney. The final offer letter will include the Request for Administrative Review form and information about the availability of an administrative review process. A prospective adoptive parent may sign an Adoption Assistance Agreement, which includes the periodic payment amount identified in the final offer letter while pursuing an administrative review of the amount. See policy 10. 20 Administrative Review for Adoption Assistance for additional information.

Except for determination of the periodic payment amount and completion of any other specific information relating to the adoptive child or family, the provisions of the Adoption Assistance Agreement form approved by DCS shall not be altered or amended. Any change of a specified term or condition must be approved by both the DCS Deputy Director of Field Operations and the DCS General Counsel or their respective designees. Approval or disapproval of any requested content or format change in the agreement form is not subject to administrative review or administrative appeal.

The agreement must be signed by both DCS and the prospective adoptive parent before entry of the Final Decree of Adoption. **If the decree is entered before the agreement has been signed by both DCS and the prospective adoptive parent, no agreement may be entered into and the child is not eligible for any form of adoption assistance under the Indiana Adoption Assistance Program.**

The Family Case Manager (FCM) will:

1. Meet with the prospective adoptive parent within 15 calendar days after receipt of the Final Adoption Program Eligibility Determination form for a child who is eligible and may potentially receive periodic payments under a signed agreement;
2. Provide the prospective adoptive parent with a copy of the pertinent documents, including the PRI, and discuss the procedure for completing the agreement;
3. Explain the other steps and procedures needed for purposes of finalizing the adoption of the child, including the opportunity to negotiate the amount of the periodic payment. See policy 10.14 Indiana Adoption Assistance Program Overview for additional information;
4. Provide the prospective adoptive parent with information about the availability of post-adoption services that may be requested and provided by DCS;

5. Explain to the prospective adoptive parent that a request can be made to change the periodic payment amount if the child's needs or family circumstances change. See policy 10.18 Modifications of an Adoption Assistance Agreement for additional information;
6. Explain to the prospective adoptive parent that the Adoption Assistance Agreement **must be signed** before finalizing the adoption; and

Note: If the Adoption Assistance Agreement is not signed by all parties prior to the finalization of the adoption, then the Adoption Assistance Agreement is not valid.

7. Send the signed Adoption Assistance Agreement and final decree of adoption from the court to the DCS Central Eligibility Unit (CEU) email.

The DCS LOD or designee will:

1. Approve or deny a written request from the prospective adoptive parent to extend the deadline to submit the completed PRI;
2. Receive the completed PRI and supporting documentation from the prospective adoptive parent or their attorney;
3. Approve or deny a written request to extend the negotiation deadline after receipt of the PRI;
4. Provide the DCS Central Office Attorney or designee with the information necessary to negotiate the appropriate periodic payment amount;
5. Sign the completed Adoption Assistance Agreement on behalf of DCS; and
6. Sign the agency consent (**after the Adoption Assistance Agreement is fully executed**), and provide a copy to the prospective adoptive parent or their attorney for filing with the court in the adoption case.

The DCS Central Office Attorney or designee will:

1. Oversee the DCS Adoption Assistance Negotiation Unit;
2. Review information received from the DCS LOD and the prospective adoptive parent necessary to negotiate the appropriate periodic payment amount;
3. Communicate with the DCS LOD about the information received and the calculations made in order to recommend to the DCS LOD a periodic payment range for the adoption subsidy;
4. Document and retain how the information provided was evaluated to calculate a periodic payment range;
5. Discuss the periodic payment with the prospective adoptive parent and/or their attorney, and negotiate the amount for the Adoption Assistance Agreement;
6. Present the Adoption Assistance Agreement for signatures to the prospective adoptive parent and DCS LOD or designee when the negotiations result in agreement; and
7. Prepare and send a final offer letter that includes information about the availability of administrative review to the prospective adoptive parent and/or their designated attorney when the negotiations do not result in agreement within 45 calendar days. Enclose the Request for Administrative Review form.

The DCS CEU will send a packet to the FCM, which includes:

1. Notice of the Final Adoption Program Eligibility Determination form;
2. The agreement in the form currently approved by DCS for use in AAP or SAS cases (if either is applicable);

3. PRI (if applicable);
4. Any other information prepared by DCS to inform DCS staff and the prospective adoptive parent of the determination and duration of periodic payments of assistance or subsidies; and
5. Request for Administrative Review form if the child is determined ineligible for AAP or SAS.

LEGAL REFERENCES

- [IC 31-19-26.5-1 Adoption Subsidy](#)
- [IC 31-19-26.5-10.5 Required agreement and allocation of funds from the adoption assistance account](#)
- [42 USC 673 \(a\)\(3\) Adoption and Guardianship Assistance Program](#)
- [45 CFR 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.](#)
- [465 IAC 3 Administrative Reviews and Hearings](#)
- [465 IAC 4 Indiana Adoption Assistance and Guardianship Assistance Programs](#)

RELEVANT INFORMATION

Definitions

Final Offer Letter

The final offer letter is sent by the DCS Central Office Attorney or designee and states the final offer of DCS for the amount of the periodic payment under an Adoption Assistance Agreement. The letter will include information about the availability of an administrative review process and the Request for Administrative Review form.

Periodic Payment

A periodic payment is a per diem amount, paid monthly, to be specified in the written Adoption Assistance Agreement.

Forms and Tools

- Adoption assistance Agreement – Available via CEU
- [DCS CEU email](#)
- Final Adoption Program Eligibility Determination – Available via CEU
- Payment Request Information (PRI) – Available via CEU
- [Request for Administrative Review \(SF 54348\)](#)
- [10.A Tool: TPR/Adoption Checklist](#)

Related Policies

- [10.14 Indiana Adoption Assistance Program Overview](#)
- [10.18 Modifications of an Adoption Assistance Agreement](#)
- [10.20 Administrative Review for Adoption Assistance](#)