	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 15: Eligibility	**Effective Date:** November 1, 2014
	Section 3: Judicial Determinations	**Version:** 1

POLICY [NEW]

In order for a child to be eligible for Title IV-E Foster Care (Title IV-E) funding, the Department of Child Services (DCS) must obtain and keep in the child's file, documentation that the following judicial determinations were made by a court:

1. DCS or Probation was awarded responsibility for Placement and Care (PC) of the child;
2. It is Contrary to the Welfare (CTW) of the child to remain in the home or is in the child's Best Interest (BI) to be removed from the home (Contrary to the Welfare/Best Interest (CTW/BI); and
3. Reasonable Efforts to Prevent Removal (RE) were made to prevent the child's removal from his/her home.

See policies 6.1 Detention Hearing and 6.2 Filing a CHINS Petition for additional information about requesting and obtaining these judicial determinations.

For Title IV-E purposes, judicial determinations should be:

1. Made on a case-by-case basis and be child-specific;
2. Obtained within the federal timelines; and
3. Explicitly stated in a written court order signed by a judge.

The effective date of a judicial determination is the date of the hearing which resulted in the determination. If the required judicial determinations are not obtained in a timely manner, the only acceptable alternative is a transcript of the court proceedings which contains the required judicial finding and language.

Responsibility for Placement and Care (PC)

A judicial determination that DCS is granted responsibility for PC of the child must be obtained in order to claim Title IV-E reimbursement. Typically, responsibility for PC is granted to DCS in the initial court order authorizing the removal of the child. Although there is no federal deadline for this judicial determination, Title IV-E cannot be claimed for the child until PC responsibility language is documented in a court order.

Contrary to the Welfare/ Best Interest (CTW/BI)

The first court order authorizing the child's removal, even temporarily, must include a judicial determination that it is contrary to the child's welfare to remain in the home or that placement out of the home would be in the best interest of the child. Depending on the circumstances, the type of order that serves as the removal order may vary, but it must contain the CTW/BI finding (this includes emergency custody orders, writs and pick-up orders). If the first court order does not contain a CTW/BI finding, the child will be ineligible for Title IV-E funding for the entire out-of-home care episode.

Reasonable Efforts to Prevent Removal (RE)

A judicial determination of RE must be obtained within 60 days from the date of removal. The court's order removing the child should include at least one (1) of the following:

1. Reasonable Efforts were made, including a description of the reasonable efforts that were made to prevent the child's removal;
2. Reasonable Efforts were not made due to emergency circumstances;
3. Reasonable Efforts were not required due to the following;
   a. The parent has subjected the child to aggravated circumstances,
   b. The parent has been convicted of murder or voluntary manslaughter of another child of the parent,
   c. The parent has aided or abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter or committed a felony assault that results in serious bodily injury to the child or another child of the parent, or
   d. Parental rights of the parent to a sibling have been terminated involuntarily.

If the court determines that RE was not required:

1. A permanency hearing must be held within 30 days after that determination; and
2. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete the steps necessary to finalize the permanent placement of the child.

   Note: The Administration for Children & Families website states, "Even when children are removed in emergency situations, the court must consider whether appropriate services were or should have been provided. When the court determines that it was reasonable for the agency to make no effort to provide services to prevent removal (or to return the child home) in light of exigent circumstances discovered through assessment of the family, such as the safety or protection of the child, there must be a judicial determination to that effect. Thus, if there is a judicial determination to the effect that efforts to prevent removal or reunify the family have not been made due to the immediate danger to the child, or that the lack of efforts is appropriate due to the particular circumstances of the case, the reasonable efforts requirements in 45 CFR 1356.21(b)(1) and (2) will be satisfied." (CWPM: 8.3A.9b, Q/A 4)

Code References

1. 42 USC 671(a)(15)
2. 42 USC 672(a)(2)(A) and (B)
3. 45 CFR 1356.21(b), (c) and (d)

PROCEDURE

The Family Case Manager (FCM) will:

1. Request a copy of the initial court order authorizing removal of the child and upload the signed court order(s) into the Management Gateway for Indiana's Kids (MaGIK) within 30 days of removal. See policies, 6.1 Detention/Initial Hearing and 6.2 Filing a CHINS Petition for additional information;
2. Verify that the court order(s) contain the required judicial determinations within the federal timelines;
3. Request that the Local Office Attorney obtain a responsibility for PC finding at the next hearing if the initial court order does not contain a responsibility for PC finding;

4. Consult with your Local Office Attorney if the initial court order does not contain an RE finding and ask to request this finding at the next hearing, or within 60 days of the child's removal, whichever occurs first. If the court makes a finding that RE were not required due to aggravated circumstances, assist the Local Office Attorney with scheduling a permanency hearing within 30 days of the hearing in which that finding was made;
5. Ensure all court orders are uploaded into MaGIK; and
6. Contact the DCS Central Eligibility Unit (CEU) immediately for additional instructions during the child's episode in out-of-home care if information is discovered regarding the child's court order language that would impact the initial eligibility determination.

The DCS CEU will:

1. Review the eligibility information in MaGIK; and
2. Make a determination of whether the CTW/BI, RE, and PC requirements are met.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

Title IV-E and Title IV-A/EA Information (SF55435)

RELATED INFORMATION

N/A