



Mitchell E. Daniels, Jr., Governor
James W. Payne, Director

Indiana Department of Child Services
Room E306 – MS47
302 W. Washington Street
Indianapolis, Indiana 46204-2739

317-232-4705
FAX: 317-232-4490

www.in.gov/dcs

Child Abuse and Neglect Hotline: 800-800-5556

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To: Regional Managers
Directors, Local Offices, Department of Child Services

From: James W. Payne, Director
Celia Leaird, Deputy Director of Programs and Services
Angela Green, Deputy Director of Practice Support
Michael Ashley, Deputy Director, Administrative Services
Department of Child Services

Subject: Indiana Adoption Program
DCS 08-13

The purpose of this letter is to inform you of policy changes effective January 1, 2009, relating to adoption subsidies. The new Indiana Adoption Program includes the Title IV-E Adoption Assistance Program (AAP) and the State Adoption Subsidy (SAS).

The attached document explains the Indiana Adoption Program and provides information about eligibility for and enrollment in the Indiana Adoption Program. It also includes specific steps that DCS staff must follow to ensure proper enrollment of eligible children.

Indiana Administrative Code, DCS Policies, and administrative forms to support the Indiana Adoption Program are being updated to reflect these changes and will be provided to you as soon as they are available. If there are any questions related to this policy please contact DCS at FieldOps@dcs.in.gov

Sincerely,

James W. Payne, Director
Department of Child Services



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Department of Child Services Indiana Adoption Program

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Section 1: Purpose, Scope and Definitions

- a. Purpose and Scope - The purpose of this program is to provide financial assistance under both the Title IV-E Adoption Assistance Program and the State Adoption Subsidy, the latter within the limits of funds appropriated to the department, in order to:
 1. enable the adoption of children who might otherwise require long-term foster care; and
 2. facilitate the adoptive family's assumption of full and total responsibility for the child(ren). The Indiana Adoption Program is designed to supplement the resources of the adoptive family.
- b. Definitions - The following definitions apply:
 1. "adoptive child" means:
 - A. an individual under 18 years of age who is under the care and supervision of the DCS and who is
 - i. residing with an adoptive parent, or
 - ii. either
 - (I.) approved by the DCS for adoption by a particular adoptive parent; or
 - (II.) approved by a court for adoption by a particular adoptive parent without consent of DCS, under 31-19-9-8(a)(10) or comparable law of the jurisdiction in which an adoption petition for the child has been filed;
 - B. an individual under 18 years of age who has been adopted by an adoptive parent and who is the beneficiary of an adoption agreement under this program; or
 - C. an individual over 18 years of age and under 21 years of age for whom an adoption agreement has been continued as provided in Section 13 of this policy.
 2. "adoptive parent" means an individual over 18 years of age who
 - A. has been approved by the DCS for adoption of a particular adoptive child,
 - B. has an approved adoption agreement signed by the parent and the DCS, or
 - C. has obtained a final decree of adoption for a child, or individual under 21 years of age, who is the subject of an adoption agreement that is currently in effect.
 3. "adoption assistance" means payment or services which are made or committed to be made pursuant to one or more of the types of assistance described in Section 2.
 4. "adoption agreement" means any agreement between the Department of Child Services and an adoptive parent regarding adoption assistance including but not limited to Title IV-E Adoption Assistance Agreements and State Adoption Subsidy Agreements as outlined herein and any other agreements or court orders entered under I.C. 31-19-26 before its repeal.
 5. "DCS" or "Department" means the Department of Child Services.
 6. "hard to place child" is as defined in 31-9-2-51 and is further defined for purposes of the State Adoption Subsidy as a child who is:
 - A. eligible for the special needs adoption program (S.N.A.P.) established and operated by the DCS under IC 31-19-27, and
 - B. disadvantaged because the child is either:
 - i. a member of a sibling group of 2 or more of which at least one child is ten (10) years of age or older; or
 - ii. ten (10) years of age or older.
 7. "parents" means either the singular or plural of the word "parent".
 8. "Regional SNAP Team" means the group established by DCS for purposes of administering the special needs adoption program with the DCS region in which the adoptive child resides.



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9. "sibling group" means a group of two (2) or more children who
 - A. are the children of the same parent, and
 - B. are or will be adopted at the same time by the same adoptive parent, and for whom the parent has signed an adoption agreement.
10. "standard foster care per diem rate" means the per diem rate approved by the DCS for payment for foster care of a child placed by, or with approval of, the DCS in a foster family home that is licensed under IC 31-27-4 and that is not licensed as a therapeutic foster family home under IC 31-27-4-2 or a special needs foster family home under IC 31-27-4-3.
11. "state adoption subsidy" means payment or services which are made or committed to be made by the Department of Child Services pursuant to IC 31-19-26.5 to an adoptive parent of a special needs child who is also a hard to place child:
 - A. after a final decree of adoption of the child has been entered under IC 31-19-11; and
 - B. during the time the child is residing with and supported by the adoptive parent or parent
12. "State Adoption Subsidy Agreement" means a written agreement between the Department of Child Services and the prospective adoptive parent of a child to be adopted, that provides:
 - A. periodic payments of a State Adoption Subsidy on behalf of the child, as provided in IC 31-19-26.5, or
 - B. eligibility for Medicaid, as provided in IC 31-19-26.5-7 and Section 5 herein.
13. "Title IV-E Adoption Assistance Agreement" means a written agreement between the Department of Child Services and the prospective adoptive parent of a child to be adopted that provides for periodic payment of Title IV-E adoption assistance and other benefits provided in 42 USC 673.

Section 2: Types of Adoption Assistance

- a. Medicaid - eligibility for participation in Indiana's Title XIX Medicaid program for children adopted under the Indiana Adoption Program and as provided in Section 5 herein.
- b. Title IV-E Adoption Assistance Program (AAP) - a monthly payment to an adoptive parent of an amount not exceeding 75% of the standard foster care per diem rate, on behalf of a child eligible for the adoption assistance program under 42 USC 673 and this policy.
- c. State Adoption Subsidy (SAS) - a monthly payment to an adoptive parent of an amount not exceeding 75% of the standard foster care per diem rate, on behalf of a child eligible for a state adoption subsidy under IC 31-19-26.5 and this policy.
- d. Non Recurring Adoption Expenses – reimbursement (maximum amounts are set forth in Section 6 (d)) for reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a special needs child as provided in 42 USC 673, 45 CFR 1356.41, and Section 6 (d) herein.

Section 3: General Requirements:

In order to qualify for any assistance under the Indiana Adoption Program, the adoptive child shall meet all of the following criteria:

- a. the child:
 1. is a ward of the DCS at the time the adoptive parent files a petition for adoption; or
 2. otherwise meets all of the Title IV-E adoption assistance program eligibility requirements stated in 42 USC 673; and
- b. The adoptive child is a special needs child as defined in Section 4 herein; and



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- c. a written Title IV-E Adoption Assistance Agreement or State Adoption Subsidy Agreement between the DCS and the adoptive parent must be signed on or before the date that the court enters the final decree of adoption for the adoptive child or as otherwise stated in an administrative review decision as specified in Section 14(f).

Section 4: Special Needs Child; Criteria

- a. An adoptive child is a special needs child, under the Indiana Adoption Program, if the child meets each of the following criteria:
 - 1. The local office of the DCS in the county where the child resides, or a juvenile court having jurisdiction over the child, has determined that the child cannot or should not be returned to the home of the child's biological parent and that:
 - A. the child's biological parent has signed or will sign a consent to adoption of the child; or
 - B. parental rights have been or will be terminated by a court in accordance with IC 31-35; or
 - C. the court in the adoption case has determined that consent of the child's biological parent is not required under IC 31-19-9-8; and
 - 2. One (1) of the following conditions exists:
 - A. The child is two (2) years of age or older; or
 - B. The child is a member of a sibling group of two (2) or more children of which at least one (1) is two (2) years of age or older and who will be placed with the sibling group in the same home; or
 - C. The child has a medical condition or physical, mental, or emotional disability as determined by a physician licensed to practice in Indiana or another state or territory; and
 - 3. Except as provided below in paragraph (4) of this section, reasonable but unsuccessful efforts have been made to place the child in an appropriate adoptive home without providing adoption assistance. Reasonable efforts include, but are not limited to, the following:
 - A. internet posting of non-identifying information about the child, pursuant to IC 31-34-21-7.3; or
 - B. photo listing of the child in the Indiana Adoption Program picture book (or any subsequent program promoting permanency developed to replace the picture book) for a minimum of six (6) months; or
 - C. inability to recruit appropriate, interested adoptive parents who are able to meet the child's needs without adoption assistance.
 - 4. Reasonable efforts need not be made to place the child without adoption assistance if to do so would be against the best interests of the child because of the existence of
 - A. significant emotional ties with a prospective adoptive parent while in the care of such parent as a foster child, as determined by a local office of the DCS or Regional SNAP team; or
 - B. other special factors or circumstances documented in the child's case file and approved by the Regional SNAP team.



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Section 5: Specific Eligibility Requirements

- a. Medicaid Eligibility.
 1. An adoptive child on whose behalf a Title IV-E Adoption Assistance Agreement has been signed by DCS and the adoptive parent is eligible for participation in Indiana's Title XIX Medicaid program.
 2. An adoptive child is eligible for participation in Indiana's Title XIX Medicaid program, if:
 - A. a State Adoption Subsidy Agreement is signed on behalf of the adoptive child, and
 - B. the child is a special needs child based on a medical, physical, mental, or emotional condition that existed before the filing of the adoption petition.
- b. Title IV-E Adoption Assistance Program Eligibility.

In order for an adoptive child to qualify for the Title IV-E Adoption Assistance Program, the DCS must determine that the child meets:

 1. all of the General Requirements; and
 2. all of the federal Title IV-E Adoption Assistance Program eligibility requirements (currently 42 USC 673).
- c. State Adoption Subsidy Eligibility.

In order for an adoptive child to qualify for the State Adoption Subsidy, the DCS must determine that the child:

 1. meets all of the General Requirements;
 2. is not eligible for the Title IV-E Adoption Assistance Program; and
 3. is a "hard to place child" as defined in 31-9-2-51 and as further defined for purposes of the State Adoption Subsidy as a child who is:
 - A. eligible for the special needs adoption program established and operated by the DCS under IC 31-19-27, and
 - B. disadvantaged because the child is either:
 - i. a member of a sibling group of two (2) or more of which at least one child is ten (10) years of age or older; or
 - ii. ten (10) years of age or older.
- d. Non Recurring Adoption Expense Eligibility.

In order for an adoptive family to be eligible to receive Non Recurring Adoption Expenses, the DCS must determine that the child is a special needs child and meets all of the federal eligibility requirements specified in 42 USC 673(a)(1)(B)(i) and 45 CFR 1356.41.

Section 6: Indiana Adoption Program Amounts/Benefits

- a. Medicaid
 1. Medicaid benefits shall be provided in accordance with 405 IAC 1 et seq.
 2. Medicaid services shall not be interrupted for a child who is covered by Medicaid when the petition for adoption of the child is filed.
- b. Title IV-E Adoption Assistance Program and State Adoption Subsidy Amounts.
 1. Title IV-E Adoption Assistance Program and State Adoption Subsidy payments shall not exceed 75% of the DCS standard foster care per diem rate.
 2. Payments will be made to the adoptive parents monthly at regular intervals determined by DCS.



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3. Title IV-E Adoption Assistance Program and State Adoption Subsidy payments may increase or decrease during the term of the adoption agreement commensurate with any increase or decrease in the standard foster care per diem rate in Indiana.
- c. State Adoption Subsidy Waiting List - State Adoption Subsidies are only available if there are sufficient funds in the Adoption Assistance Account established under IC 31-19-26.5-10. If there are not sufficient funds in the Adoption Assistance Account, the eligible child for whom a State Adoption Subsidy Agreement has been signed shall be placed on the State Adoption Subsidy Waiting List (Waiting List). Payment of a State Adoption Subsidy will not commence until the child is placed in payment status in accordance with the funding priorities outlined in Section 7 below.
- d. Non Recurring Adoption Expense is a one-time reimbursement of non-recurring adoption expenses not to exceed one thousand five hundred dollars (\$1,500.00) per eligible child. If two (2) or more children are adopted as either as members of a sibling group, or by separate adoption decrees entered within any period of six (6) months, the non-recurring adoption expenses for the second and subsequent children shall not exceed \$750.00 per eligible child.

Section 7: Funding Priorities for Title IV-E Adoption Assistance Program and State Adoption Subsidies

- a. The funds available to the DCS in the Adoption Assistance Account shall be first applied to the payment of amounts specified in
 1. all Title IV-E Adoption Assistance Agreements; and
 2. court orders entered under IC 31-19-26 before January 1, 2009, that are in effect when payments become due under those agreements or orders, including any continuation of payments after 18 years of age approved by the DCS under Section 13 herein; and
 3. Non Recurring Adoption Expense agreements.
- b. After all obligations described in subsection (a) have been paid, the remaining funds available in the Adoption Assistance Account shall be used to pay for obligations due under state adoption subsidy agreements signed on and after January 1, 2009, in the following order of priority:
 1. obligations that become payable under State Adoption Subsidy Agreements that have been approved for commencement of payment.
 2. obligations for payments approved under State Adoption Subsidy Agreements that have been placed on the State Adoption Subsidy Waiting List due to insufficiency of available funds, for which payments will be commenced, in the following order of priority, determined as provided in subsection (c) for agreements within each of the following priority categories:
 - A. Priority 1: children who are members of a sibling group of two (2) or more of which at least one child is ten (10) years of age or older.
 - B. Priority 2: children who are ten (10) years of age or older.
- c. For purposes of determining commencement of payment for State Adoption Subsidy Agreements on the Waiting List, the date of commencement shall be as determined under subsection (b), in the order of the date of final approval and signature by the DCS of the State Adoption Subsidy Agreement.
- d. Sufficient funds must be available in the Adoption Assistance Account to pay in full all obligations incurred or to be incurred under an adoption agreement in a higher priority category before payments may commence with respect to any obligations incurred or to be incurred in the next lower priority category.



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- e. Any State Adoption Subsidy Agreement that is approved under this policy and that cannot be paid currently due to insufficiency of funds available in the Adoption Assistance Account will be placed on the State Adoption Subsidy Waiting List, in the priority category specified in subsection (b) and in the order specified in subsection (c). An approved State Adoption Subsidy Agreement will be moved from the Waiting List to payment status, upon determination by the DCS Director, or his designee, that sufficient funds are or will become available during the fiscal year to make the payments as they become due under the approved agreement, for the remainder of the State fiscal year. The Director, or his designee, will notify the DCS Programs and Services Division when funding becomes available for one or more State Adoption Subsidy Agreements on the Waiting List. The DCS Programs and Services Division, or its designee, will maintain the list and will notify the Central Eligibility Unit to place the child in payment status. The Programs and Services Division will send an Adoption Payment Commencement Letter to the adoptive parent notifying the parent of the effective date for commencement of payments under the terms of their State Adoption Subsidy Agreement.
- f. No payments will be made under any State Adoption Subsidy Agreement that was placed on the Waiting List for any period of time before the effective date for commencement of payments, as stated in the Adoption Payment Commencement Letter sent by DCS to the adoptive parent under subsection (e).

Section 8: Suspension or Reduction of State Adoption Subsidy Payments for Funding Shortfalls

- a. In the event the DCS determines at any time that sufficient funds are not available and will not become available during a fiscal year to pay in full all obligations incurred under State Adoption Subsidy Agreements that will become due and payable during the remainder of the fiscal year, the DCS may, after 30 days' written notice to the adoptive parent, implement a percentage reduction in all payment obligations under either or both categories described in section 7, if the following conditions are satisfied:
 - 1. no State Adoption Subsidy Agreement on the Waiting List will be approved for commencement of payments, while the percentage reduction is in effect; and
 - 2. the State Adoption Subsidy Agreement includes a provision authorizing the DCS to make percentage reductions in payments due to insufficiency of available funds, in accordance with this section.
- b. The Director of DCS may, from time to time, determine that no new state adoption subsidy agreements will be approved for payment based on the limitation of funds available and anticipated to become available in the Adoption Assistance Account. The determination shall be effective upon publication of a notice of the determination in the Indiana Register and posting of the notice on the DCS website. The determination will terminate at a time specified in the notice, or, if no termination date is specified, by a subsequent publication of a notice of termination in the Indiana Register and on the DCS website.

Section 9: Indiana Adoption Program Administration

- a. Adoption Services Eligibility Pre-Determination Request - At such time as it appears that a child under the care and supervision of the DCS may become eligible for adoption, the child's family case manager shall complete a Request for Pre-Determination of Adoption Program Eligibility (which may be requested electronically through ICWIS when available).



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b. Eligibility Predetermination

1. The DCS Central Eligibility Unit will review the child's eligibility information, make an eligibility predetermination and issue an Eligibility Predetermination Letter (should also record it on the child's Benefit Summary Screen when available).
2. The Eligibility Predetermination Letter shall be reviewed with any potential adoptive parent at the time the child is determined be eligible for adoption or earlier if the child is expected to be eligible for adoption in the near future. For purposes of this paragraph, the date the child becomes eligible for adoption, shall be the earliest of the following:
 - A. the date the court entered a final order under IC 31-35 terminating the child's parent-child relationship with respect to the child's last remaining living parent, or
 - B. the date each parent required to consent to adoption of the child, and the child (if applicable), signed an unconditional consent to adoption, as provided in IC 31-19-9-1, or
 - C. the date the court in which a petition for adoption was filed determined that consent of each parent of the child, whose consent was otherwise required under IC 31-19-9-1 (or comparable law of the state where the adoption petition was filed), was not required under any applicable provision of IC 31-19-9-8 (or comparable law of the state where the adoption petition was pending).
3. When an adoptive parent has been identified for a particular adoptive child, the FCM shall meet with the adoptive parent and give the adoptive parent the following:
 - A. a copy of the Eligibility Predetermination Letter; and
 - B. Explanation of Indiana Adoption Program and Background Information; and
 - C. Indiana Adoption Program Application.
4. At this meeting, the FCM will:
 - A. review the Eligibility Pre-determination Letter with the adoptive parent; and
 - B. explain the Indiana Adoption Program and discuss, in detail, the child's eligibility for adoption assistance, including the types and amounts of assistance or subsidy and any additional documents needed to support the application such as a physician statement; and
 - C. explain the child's medical background and any occurrences in the life of the child which might affect the child's development; and
 - D. request that the adoptive parent sign the Explanation of Indiana Adoption Program and Background Information; and
 - E. review the Indiana Adoption Program Application with the adoptive parent and notify the adoptive parent that the Indiana Adoption Program Application must be sent to the DCS local office at the same time, or no later than ten (10) business days after, the petition for adoption is filed.
5. The FCM shall place the signed Explanation of Indiana Adoption Program and Background Information in the local office case file within 10 days of the date of signature by the adoptive parent.

c. Application Processing

1. After the DCS local office receives the Indiana Adoption Program Application (and any information to support the application), the DCS local office shall submit the application and any supporting documentation to the DCS Central Eligibility Unit, or other office designated



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- by the Director. The DCS local office should include any recommendation concerning the approval or denial of the requested adoption services.
2. If the application is incomplete or does not contain sufficient information, in the opinion of the DCS Central Eligibility Unit, the DCS may request additional information and the FCM or local office director shall assist in securing the necessary information.
- d. Final Eligibility Determination
1. DCS Central Eligibility Unit will:
 - A. review the Indiana Adoption Program Application, and
 - B. make a final eligibility determination (and update the Benefit Summary Screen for the child), and
 - C. issue the Final Adoption Program Eligibility Determination; and
 - D. draft the proposed Title IV-E Adoption Assistance Agreement or State Adoption Subsidy Agreement.
 2. Within 40 calendar days of the date the DCS Central Eligibility Unit receives the Indiana Adoption Program Application, DCS Central Eligibility Unit shall send, via certified mail, return receipt requested:
 - A. the Final Adoption Program Eligibility Determination; and
 - B. the proposed Title IV-E Adoption Assistance Agreement or State Adoption Subsidy Agreement.to the adoptive parent, or the adoptive parent's attorney (if they are represented by an attorney in the adoption proceeding), and sends copies of those documents to the FCM at the DCS local office.
 3. When the FCM receives the copy of the proposed adoption agreement, the FCM shall schedule an appointment with the adoptive parent and/or the adoptive parent's attorney, to discuss and negotiate the terms of the adoption agreement.
 4. If the adoptive parent agrees to the terms of the adoption agreement, the FCM shall obtain the adoptive parent's signature and return the signed adoption agreement to the DCS Central Eligibility Unit for processing.
 5. Upon receipt of a signed adoption agreement, the DCS Central Eligibility Unit shall obtain signature of the DCS Director and send a copy of the final executed adoption agreement to the adoptive parent or the adoptive parent's attorney.
 6. If there are any disagreements regarding the terms of the agreement, the FCM shall contact designated Central Office staff for further guidance and negotiation.
 7. If the adoptive parent disagrees with the Final Adoption Program Eligibility Determination or the terms of the proposed adoption agreement, the adoptive parent may submit a Request for Administrative Review within 30 days of the date of the Final Adoption Program Eligibility Determination.

Section 10: Title IV-E Adoption Assistance and State Adoption Subsidy Agreements

- a. The DCS Central Eligibility Unit will draft the applicable agreement, in a format prescribed by DCS.
- b. The agreement should include the nature and amount of any payments, services, and any other assistance that DCS will provide to the adoptive child or adoptive parent.
- c. The agreement shall be signed by the DCS Director or other designated DCS official, and the adoptive parent.



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- d. The agreement may be modified, amended, rescinded, or canceled at any time by mutual agreement in writing.
- e. The adoptive parent shall notify the DCS or ensure that the DCS is notified, in writing, within 10 days of the occurrence of any of the following events :
 - 1. the adoptive parent is no longer legally responsible for the support of the child;
 - 2. the child no longer receives financial support from the adoptive parent; or
 - 3. there is any change in the family's or child's circumstances which would render the child ineligible for continuation of periodic payments as provided in the adoption agreement, or that would provide a basis for renegotiation or amendment of the payment amounts or other terms of the agreement.
- f. All monthly payments shall be due and payable beginning with the month in which the latest of the following events occur:
 - 1. the date of placement of the child in the adoptive home; or
 - 2. the date of the final decree of adoption; or
 - 3. the date specified in the Adoption Payment Commencement Letter sent to the adoptive parent of any child on the Waiting List that is placed in payment status, as provided in Section 7.
- g. Payments will be made at the time and in the manner specified by DCS.
- h. Monthly payments will not begin, under any adoption agreements, until a copy of the final decree of adoption is submitted to the DCS local office attorney.

Section 11: Periodic Review and Reporting

- a. All parents of adoptive children who have entered into adoption agreements shall, unless otherwise provided for in their adoption agreement, submit a fully completed Adoption Program Status Report annually.
- b. The Adoption Program Status Report shall be submitted to the DCS Central Office after June 1st and before July 1st of each calendar year. If the adoption agreement was signed, or monthly payments commenced, after April 15th of any year, the first Adoption Program Status Report shall be due before July 1st of the following year.
- c. In addition to submission of the Adoption Program Status Report required under this policy, the adoptive parent shall promptly notify the DCS Central Office, in writing, of the occurrence of any event that is or could be grounds for termination or suspension of the adoption agreement or court order. If the adoptive parent fails to notify the DCS Central Office of an event that could be grounds for termination or suspension of an adoption agreement or court order within 30 days of the occurrence of the event, DCS may require the adoptive parent to refund to the DCS any payments received for any month after the date of the occurrence.

Section 12: Termination of Title IV-E Adoption Assistance Program and State Adoption Subsidy

- a. Unless otherwise provided in an adoption agreement or court order, all payments and services provided under an adoption agreement shall terminate when:
 - 1. the child has attained the age of eighteen (18); or
 - 2. the child becomes emancipated; or
 - 3. the adoptive parent is no longer legally responsible for the support of the child; or
 - 4. the adoptive parent(s) or the adoptive child dies; or
 - 5. the child's adoption is terminated.



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- b. Failure to submit an Adoption Program Status Report as required in Section 11 shall be grounds for termination or suspension of payments under a State Adoption Subsidy Agreement, until the required Adoption Program Status Report has been submitted, reviewed and approved by DCS.
- c. If an adoption agreement is terminated on the ground that the adoptive parent is no longer providing financial support to the child, the DCS and adoptive parent may enter into a subsequent agreement for periodic payments for the benefit of the child, if at any time the parent resumes regular financial support of the child.

Section 13: Continuation (Subject to Funding Availability) of Adoption Agreements After Child Becomes 18 Years of Age

- a. DCS will not approve any applications for continuation of adoption agreements under this Section unless all State Adoption Subsidy Agreements placed on the Waiting List under Section 7 have been approved for commencement of payments except as otherwise required by state and federal law.
- b. If funding is available, adoption agreements may be continued beyond the date the adoptive child becomes age 18 under certain circumstance, as provided in this section or in the adoption agreement.
- c. An adoptive parent and the child for whose benefit the DCS is making payments under an adoption agreement shall jointly submit an Application for Continuation of Adoption Agreement not later than 30 days before the child's 18th birthday, unless otherwise provided in the adoption agreement.
- d. The Application for Continuation of Adoption Agreement shall include documentation, as required by any form adopted or instructions issued by DCS, supporting the basis for the continuation and the statutory eligibility requirements for continuation of the adoption assistance.
- e. Grounds for continuation are as specified in the adoption agreement or as specified by 42 USC 673(a)(4) or I.C. 31-19-26.5-9(b). The following documents should be submitted to DCS with an Application for Continuation of Adoption Agreement:
 - 1. Physical, Mental, Medical, or Emotional Condition: If the application is based on the child's need for continuing support and assistance because of a physical, mental, medical, or emotional condition, the application should include documentation regarding the child's current needs and condition and should be supported by certification from a licensed physician, stating the specific condition and diagnosis that limits the child's self-supporting capability, and which describes the support and/or treatment required to meet the child's current needs. DCS may, at its option, request an independent examination and report regarding the child, from a qualified professional selected by DCS, to assist in its determination of whether to approve the application for continuation.
 - 2. Educational Needs Basis (State Adoption Subsidy Agreements Only, if funding is available): If the application is based on the child's educational needs as specified in IC 31-19-26.5-9(b)(1)(A), the application must include documentation required by the DCS to describe and substantiate the child's educational status.
 - 3. Continued Parental Support. An Application for Continuation of Adoption Agreement under this Section must include documentation, in the form required by the DCS, to establish that the adoptive parent is providing continuing financial support of the adoptive child and is entitled to claim the adoptive child as a dependent for federal or state income tax purposes during the year or years included in the continuation request.



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- f. If an application for continuation of payments under an adoption agreement is approved, all requirements stated herein shall continue to apply during the continuation period. In addition, the adoptive child or adoptive parent shall promptly notify DCS of any change in the child's circumstances that relate to the basis for continuation of payments, including but not limited to (1) any change in the nature or scope of legal, financial or other support that the adoptive parent provides for the child's living expenses, medical needs, or necessary care and supervision, or (2) termination of enrollment in any school or educational program before graduation or completion of the program.

Section 14: Administrative Reviews and Hearings

- a. An applicant aggrieved by a determination made by the DCS under this policy may request an administrative review by the DCS Director, or the Director's designee, of any of the following determinations, by submitting a written Request for Administrative Review within 30 days after receipt of the notice of the determination for any of the following decisions:
 - 1. Final Adoption Services Eligibility Determination.
 - 2. Termination or suspension of adoption assistance under an adoption agreement or court order before the child becomes 18 years of age.
 - 3. Discontinuance or modification of adoption assistance in an adoption agreement or court order.
 - 4. Denial of an application for continuation of payments under an adoption agreement or court order, after the child has attained the age of 18, as provided in Section 13.
- b. Upon completion of an administrative review, the DCS Director or the Director's designee shall issue a Notice of Final Administrative Review Decision.
- c. An applicant dissatisfied with the Notice of Final Administrative Review Decision under subsection (b) of this Section may request an administrative hearing by submitting a written Request for an Administrative Hearing within 30 days after receipt of the Notice of Final Administrative Review Decision. A hearing will be provided concerning a decision under paragraph (1), (2), or (3), of subsection (a). No administrative hearing will be provided concerning a decision under paragraph (4) of subsection (a).
- d. An administrative hearing provided under subsection (c) of this Section shall be held by an administrative law judge designated by the DCS in accordance with the procedure specified in 470 IAC 1-4-1 through 470 IAC 1-4-5.
- e. No administrative review or hearing will be provided to an applicant or recipient of payments under adoption agreements concerning any of the following DCS decisions:
 - 1. Determinations made in accordance with Section 15 ("Procedures for Determination of Funding Availability") concerning the availability of funds in the Adoption Assistance Account for payments under State Adoption Subsidy Agreements based on the funding priorities specified in Section 7.
 - 2. Determinations relating to percentage reductions in current state adoption subsidy payments pursuant to Section 8.
 - 3. Any other decision or determination of the DCS relating to administration of the State Adoption Subsidy program under IC 31-19-26.5 and this policy that is not described in subsection (a) of this Section.



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- f. If an administrative review or hearing results in a determination in favor of the adoptive parent, a new or amended Title IV-E Adoption Assistance Agreement or State Adoption Subsidy Agreement must be signed within 30 calendar days after the date the adoptive parent receives notice of the final order or other determination following the administrative review or hearing.

Section 15: Procedure for Determination of Funding Availability

- a. The DCS Deputy Director for Budget and Finance, after consultation with the State Budget Agency, will submit an Annual Adoption Subsidy Report to the DCS Director not later than June 30th of each year, regarding the amount spent and the amount to be spent from the Adoption Assistance Account in or for the State fiscal year ending June 30. The report will include the following information:
 - 1. The amount expended and to be expended for each funding category listed in Section 7.
 - 2. The anticipated amount needed for obligations and projected expenditures in the ensuing fiscal year for each funding category.
 - 3. The amount available in the Adoption Assistance Account established under IC 31-19-26.5-10 for the ensuing fiscal year, based on the sum of
 - A. appropriations to the Adoption Assistance Account for Title IV-E adoption assistance program or state adoption subsidies,
 - B. allocations to the Adoption Assistance Account from other funds appropriated to DCS for child services that have been made or approved by the DCS Director, and
 - C. any amounts available from other funding sources for the purpose of payment of adoption assistance or adoption subsidies under 42 U.S.C. 673 or IC 31-19-26.5.
- b. The Director may, after receipt and review of the Annual Adoption Subsidy Report, allocate additional funds to the Adoption Assistance Account from appropriations or other funding sources available to the DCS. Upon approval by the Director, the Annual Adoption Subsidy Report, including a supplemental report of any additional funds that the Director allocates to the Adoption Assistance Account for the ensuing fiscal year, will be posted on the DCS website.
- c. If the final approved Annual Adoption Subsidy Report as posted shows that funds available in the Adoption Assistance Account for the ensuing fiscal year are insufficient to pay all obligations or expenses anticipated for that year, the DCS will not approve any new agreements for State Adoption Subsidy that provide for payment during that fiscal year for any funding priority category described in Section 7 that is not adequately funded for payments from amounts available for that category as shown by the report.
- d. The Deputy Director or designee will determine, at the beginning of the fiscal year, the amount available in the Adoption Assistance Account for payments under state adoption subsidy agreements approved before the beginning of the fiscal year and placed on the Waiting List in accordance with Section 7, based on the approved Annual Adoption Subsidy Report. The Deputy Director or designee will review the status of the Adoption Assistance Account every sixty (60) days during the fiscal year and submit a supplemental status report to the Director, including a re-determination of the amount currently available for funding of additional approved state adoption subsidy agreements on the Waiting List. The Director may authorize transfer of funds to or from the Adoption Assistance Account, in his discretion, based on the information submitted in each supplemental status report. After the Director has approved the supplemental report, as amended by any approved funds transfers, the Deputy Director or designee will notify the Central Eligibility



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Unit of the amount available, if any, for commencement of payments under approved state adoption subsidy agreements on the Waiting List.

- e. If during any fiscal year the expenditures required for payment of amounts due or to become due under existing and anticipated new Title IV-E adoption assistance agreements, plus existing state adoption subsidy agreements and pre-2009 court orders that require current periodic payments, exceed the projected amounts needed for payment of those obligations as stated in the Annual Adoption Subsidy Report posted by the DCS, the DCS may submit to the State Budget Agency a request for augmentation of the Adoption Assistance Account, to the extent necessary to provide adequate funding for the anticipated excess expenditures required. If sufficient additional funds cannot be obtained in the Adoption Assistance Account to pay all projected obligations in full, the DCS may implement a percentage reduction in amounts payable under current State Adoption Subsidy Agreements, to the extent permitted by law and in accordance with Section 8 of this policy.
- f. For the six-month period beginning January 1, 2009, and ending June 30, 2009, the Annual Adoption Subsidy Report will be submitted not later than August 15, 2009.

Section 16: Effective Dates

- a. Except as otherwise provided herein, this policy is effective January 1, 2009.
- b. If any provisions of Section 4(a) of this policy concerning the definition of a special needs child, for purposes of determining eligibility for Title IV-E Adoption Assistance under 42 USC 673 or a State Adoption Subsidy under IC 31-19-26.5-3 and this policy, are inconsistent with any provision of 465 IAC 2-7-2 as in effect on January 1, 2009, those provisions are effective on the effective date of amendments to 465 IAC 2-7-2, that are consistent with the provisions of this policy.
- c. All provisions of this policy that are addressed in rules adopted by DCS under authority of IC 31-19-26.5-12 expire on the effective date of the rules, to the extent of any inconsistency between any provision of the rules and a provision of this policy.



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