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TITLE IV-E FOSTER CARE

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TITLE IV-E FOSTER CARE

1.1 Introduction

1.1.1 Purpose

This manual addresses Title IV-E eligibility requirements as provided by Federal regulations (45 CFR Parts 1355 and 1356) and State statutes (Title 63.2 and Title 16.1), as well as the appropriate use of Title IV-E funds for those foster care children who have been found eligible for funding under Title IV-E. This manual is a companion to the Foster Care Manual. The Title IV-E manual provides guidance and authority specific for use of Title IV-E funds but additional guidance may also be documented in the Foster Care chapter.

1.1.2 Overview

Foster Care is a State-mandated service provided through federal, state, and local funds for children who have been placed in family foster homes or other types of out-of-home placements as initiated by a court order, or a Voluntary Placement Agreement, e.g., entrustments and non-custodial foster care agreements. Foster care placement is intended to be a temporary, rather than a long-term solution to family problems. A placement may be with a foster family, an adoptive family, in a group living arrangement, in a residential treatment facility, or in an independent living arrangement.

"Foster care services" refers to the provision of a full range of casework, treatment, and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in § 16.1-228 and his family when a child:

- Has been identified as needing services to prevent or eliminate the need for foster care placement.

- Has been placed through an agreement between the local board and the parent(s) or guardians where legal custody remains with the parent(s) or guardians.

- Has been committed or entrusted to a local board or licensed child-placing agency (LCPA) (§ 63.2-905).

Federal Financial Participation (FFP) in the form of reimbursement to states for allowable foster care costs is provided under subpart E of Title IV of the Social Security Act.

1.2 Title IV-E

1.2.1 Definitions

The following words and terms, when used in this policy, shall have the following meaning, unless the context clearly indicates otherwise:

Term	Definition
Agency	A public agency or licensed child-placing agency.
Agency-Approved Foster Home	Any LDSS-approved provider home that gives 24-hour substitute family care, room and board, and services for children or youth.
Aid for Families with Dependent Children (AFDC)	The benefit program prior to Temporary Assistance for Needy Families (TANF). AFDC was repealed but the AFDC Program requirements that were in effect in Virginia on July 16, 1996, remain in effect for Title IV-E eligibility determinations.
Allowable Costs	The expenses identified as reimbursable in Federal guidance.
Annual Judicial Review (AJR)	Court hearing and signed order held within a 12-month period that evaluates and approves the permanency plan for a foster care child.
Assistance Unit	The grouping of persons who were residing in the removal home in the month of removal prior to the child's actual (physical or constructive) removal from the home whose income and resources shall be considered during the eligibility month when evaluating AFDC eligibility.

Term	Definition
Best Available Evidence	The allowable use of documentation that, based upon a preponderance of evidence, can be reasonably viewed to satisfy certain Title IV-E eligibility requirements.
Certificate of Approval	The document provided to a foster home as proof of meeting standards for approval.
Child-Placing Agency (CPA)	Any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.
Comprehensive Services for At-Risk Youth and Families (CSA)	The legislation that created a collaborative system of services and funding that is child-centered, family-focused, and community-based to address the strengths and needs of troubled and at-risk youth and their families (§ 2.2-5200 et. seq.).
Contrary to the Welfare	A determination made by a judicial order with language to the effect that continuation in the home would be contrary to the child's welfare, or that placement is in the child's best interest.
Court Order	Any order issued by a court that removes custody, approves custody, or approves placements and conditions for foster care. This includes Petition for Removal, Emergency Removal orders, Preliminary Removal orders, Annual Judicial reviews and CHINS petitions. Nunc Pro Tunc (now for then) orders or affidavits attesting that the judicial determination occurred at a previous hearing court orders that change the substance of a prior judicial determination or constitute a judicial determination not previously made are not acceptable documentation in support of a judicial determination.
Date Child Entered Foster Care	The earlier date of a judicial finding of abuse or neglect or 60 days from the date the child is physically removed from the home.

Term	Definition
Deeming	The procedure to evaluate income of an individual living in the removal home who is not included in the AFDC assistance unit but whose income may be considered available to the AFDC assistance unit.
Department (or VDSS)	The Virginia Department of Social Services.
Deprivation	Verification that the child does not have parental support or care due to the death, absence, or physical or mental incapacity of one parent or unemployment of both parents. The initial determination of deprivation is based on the conditions in the specified relative's home during the month the Voluntary Placement Agreement is signed or the removal petition is filed.
Eligibility Worker	The worker primarily responsible for determination and ongoing evaluation of documentation for Title IV-E requirements for a foster care case.
Enhanced Maintenance Payment	The reimbursement paid to a foster parent over and above the basic foster care maintenance payment or to an adoptive parent. It is based on the needs of the child for additional supervision and support.
Foster Care	Twenty-four-hour substitute care for children placed away from their parents or guardians and for whom the local board has placement and care responsibility. Placements may be made in foster family homes, foster homes of relatives, pre-adoptive homes, group homes, emergency shelters, residential facilities, and child care institutions. Foster care also includes children under the placement and care of the local board who have not been removed from their home.
Foster Care Placement	Placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians, or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency (§ 63.2-100).
Foster Child	A person who has been placed into foster care through a non-custodial foster care agreement, entrustment, or commitment before 18 years of age.

Term	Definition
Foster Family Placement	Placement of a child with a family that has been approved by the LDSS or an LCPA to provide substitute care for children until a permanent placement can be achieved.
Good Cause	An exception to the requirement that LDSS cooperate with DCSE to pursue child support on behalf of a foster care child.
Income	The funds earned by members of the assistance unit from wages, salaries, commissions, or profit through self-employment or unearned income received for which no service is performed such as child support, disability/retirement payments, Social Security, or Veterans' benefits.
Legal Custody	The legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2. A court order that gives responsibility for the child's daily care and supervision to relatives or other interested individuals whom the court has determined is: • Willing and qualified to receive and care for the child. • Willing to have a positive and continuous relationship with the child. • Committed to providing a permanent suitable home for the child. • Willing and able to protect the child from abuse and neglect (§§ 16.1-278.2 and 16.1-288).
Licensed Child-Placing Agency (LCPA)	Any CPA who is licensed and places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia.
Local Department (LDSS)	A Local Department of Social Services of any county or city in this Commonwealth.

Term	Definition
Maintenance Payment	Payments made on behalf of a child to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel for the child to visit with family or other caretakers and to remain in the school in which the child was enrolled at the time of placement.
Non-Custodial Foster Care Agreement	The agreement that specifies the conditions for care and control of the child that the LDSS enters into with the parent(s) or guardians to place a child in foster care when the parent(s) or guardians retain custody.
Parental Agreement	The agreement that the local public agency designated by the Community Policy and Management Team enters into with the parent(s) or guardians who retain legal custody of the child that specifies the conditions for placing the child in a placement outside of the child's home. The local public agency shall not be the LDSS.
Permanency Planning	An array of social work and legal efforts directed toward securing safe, nurturing, life-long families for children in foster care.
Physical Custody	The physical care and supervision of a child (§ 20-146.1).
Post-Adoption Contact and Communication Agreement (PACCA)	The voluntary, legally enforceable, written agreement between the birth parent(s) and the adoptive parent(s) for contact and communication after the legal adoption of a child that has specific requirements included in the agreement.
Reasonable Efforts	A determination made by a court order that the agency has made efforts to keep the child in the home, return the child to the home or to achieve another permanent placement.

Term	Definition
Relatives of Fifth Degree	Any relative by blood, marriage, or adoption that is within five (5) generations of child which goes back to: • 5th degree-Great-great-great grandparent; Great-great aunt/uncle; Great-great niece / nephew; First cousin once removed (child of first cousin). • 4th degree-Great-great grandparent; Great aunt/uncle; Great niece / nephew; First cousin. • 3rd degree-Great grandparent; Aunt / Uncle; Niece / nephew. • 2nd degree-Grandparent; Sibling. • 1st degree-Parent.
Removal Home	The home of the individual from whom legal custody is being removed. Typically this is the parent unless there has been a legal transfer of custody to someone else.
Residential Placement	A placement in a licensed publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their families. A residential placement includes children's residential facilities as defined in § 63.2-100 of the Code of Virginia.
Resources	Real and personal property with countable value owned by the members of the assistance unit.
Reunification	The return of the child to his or her home, based on a permanent plan, after removal for reasons of child abuse and neglect, abandonment, child in need of services, parental request for relief of custody, non-custodial foster care agreement, entrustment, or any other court-ordered removal.
Service Fee Directory	The directory created by the Comprehensive Services Act which lists services offered and rates charged by any entity, public or private, that offers specialized services for at-risk youth or families.
Service Worker	The worker primarily responsible for case management or service coordination for a foster care case.
Sibling	Two or more children with at least one natural or adoptive parent in common.

Term	Definition
Specified Relative	The person related to the child by blood, adoption, or marriage with legal custody at time of removal.
State Pool Funds	The pooled federal, state and local funds established by the Comprehensive Services Act and used to pay for services authorized by the Community Policy and Management Team, including foster care services.
Virginia Enhanced Maintenance Assessment Tool (VEMAT)	Virginia's standardized tool for assessing a child's need for enhanced maintenance payments when placed in a foster home.
Voluntary Placement Agreement (VPA)	An agreement entered into by the parent(s) or legal guardian which leads to a physical or constructive removal of the child from the home. VPAs include Permanent and/or temporary entrustments and Non-custodial foster care agreements.

1.2.2 Legal basis – federal

1.2.2.1 Federal adoption assistance

In 1980, the Federal Adoption Assistance and Child Welfare Act (Public Law 96-272) created new sources of funding under Title IV-E of the Social Security Act for the placement of children from needy families. Title IV-E requirements included certain protections for children: reasonable efforts to prevent unnecessary removal of the child from his home; returning the child to his home as soon as conditions in the home permit; and facilitating the adoption or other permanent placement for children who cannot be returned to their own homes.

Additionally, the Adoption Assistance and Child Welfare Act established the Federal Title IV-E adoption assistance program which provides matching funds to States operating a program of subsidies for parent(s) who adopt children with special needs who were either eligible for Aid for Families with Dependent Children (AFDC) or Supplemental Security Income (SSI).

1.2.2.2 Personal Responsibility and Work Opportunity Reconciliation Act

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193) created the Temporary Assistance for Needy Families (TANF) block grant to replace the AFDC Program. Although AFDC was repealed, the AFDC Program requirements that were in effect in Virginia on July 16, 1996, remain in effect for Title IV-E eligibility determinations for all children in foster care and for certain children being adopted. If a child is receiving TANF assistance, this does not mean that the child is eligible for Title IV-E assistance. Title IV-E eligibility decisions shall be based on the AFDC requirements as set forth in this manual.

1.2.2.3 Fostering Connections to Success and Increasing Adoptions Act of 2008

Fostering Connections Act refers to Public Law 110-351 enacted on October 7, 2008. Generally, the law amends the Social Security Act to extend and expand adoption incentives through FY2013; create an option to provide kinship guardianship assistance payments; create an option to extend eligibility for title IV-E foster care, adoption assistance and kinship guardianship payments to age 21; de-link adoption assistance from Aid to Families with Dependent Children (AFDC) eligibility; and provide federally-recognized Indian Tribes or consortia with the option to operate a Title IV-E program, among many other provisions.

1.2.2.4 Code of Federal Regulations

Federal regulations (Title 45 Public Welfare) specify the requirements applicable to Title IV-E foster care.

1.2.3 Legal basis – state

Title 63.2 of the Code of Virginia effective October 1, 2002 mandates an LDSS in every political subdivision of the state, or combination thereof, and specifies the duties and responsibilities of the local board of social services and director, as well as the methods of discharging these responsibilities. This Title defines the general and specific duties and responsibilities of the VDSS in relation to the supervision of LDSS. Only LDSS employees are authorized to make the determination of Title IV-E eligibility.

Title 16.1 Chapter 11, of the Code of Virginia authorizes the court to cooperate with and make use of the services of all public or private societies or organizations which seek to protect or aid children or families, in order that the court may be assisted in giving the children and families within its jurisdiction such care, protection, and assistance as will best enhance their welfare.

1.2.4 Title IV-E federal review

The Improper Payments Information Act (IPIA) of 2002 requires Federal agencies to manage and reduce or eliminate, where possible, improper payments in Federal programs. Periodic Title IV-E foster care eligibility reviews are conducted to validate the accuracy of a State's claim for reimbursement of payments made on behalf of eligible children placed in allowable homes or facilities. The validations are made most effectively by an examination of the case records of the child and provider and payment documentation. Payment eligibility also is monitored and reviewed by audits conducted by the Office of the Inspector General (OIG) and the Administration for Children and Families (ACF) Regional Office when conducting a claims review. In conducting foster care eligibility reviews, ACF is fulfilling its financial and programmatic stewardship responsibilities, while also complying with statutory provisions mandated in the IPIA of 2002.

The amount of funds to be disallowed will be determined by the extent to which the State – by virtue of the LDSS – complies with Title IV-E eligibility provisions. Due to the potentially significant dollar amount, LDSS may be held responsible for any financial disallowance associated with cases determined not be in Title IV-E compliance.

In addition to the periodic Federal reviews, the State will also conduct onsite case reviews at all LDSS agencies to ensure compliance with Federal Regulation. The State review will evaluate accuracy of compliance with state guidance, completion of staff training requirements, correctness of OASIS reports for court hearing and placements, file structure and organization, and the accuracy of payments using Title IV-E funds. The Virginia Appropriations Act provides authority for the state to seek repayment of funds identified through the State review process or Federal reviews that were made in error by the LDSS if the LDSS has not utilized or applied required procedures for full compliance with Federal regulations.

1.2.5 Standard file format

The eligibility case file should be a "stand alone" file which incorporates any and all documents required for determining eligibility. The standardized format will minimize errors, speed reviewing time, improve error detection, and provide an adequate audit trail. The eligibility worker should organize the cases in the following sections with divider pages identifying each section.

Section I – Permanent Verification

- Birth Certificate for Child.
- If legal custody is held by someone other than parent at removal:
  - Custody Order or signed statement from SW or individual who had legal custody attesting to legal custody at removal.
- Social Security Number for foster care child.

- DCSE Referral/501 form on both absent parents (not required on deceased parent).
  - Good Cause Claim form (if applicable).
- Any other form/document which would be considered a permanent document
- Adoption Assistance Screening Tool (if applicable).

Section II – Initial Court Orders or VPA

- Removal Petition (if applicable).
- Court Order which transferred legal custody to agency (i.e., ERO, PRO, Transfer of Custody Order).
- Court Order which adjudicated abuse/neglect (if applicable)
  - PRO or Adjudication Order.
- VPA (if applicable) which includes Permanent Entrustments, Temporary Entrustments, and Non-custodial Agreements.

Section III – Initial Screening

- Initial Application.
- Initial Evaluation of Eligibility.
- Supporting Documentation used to establish initial eligibility.
- Notice of Action with approval date.

Section IV – Changes-forms or agency notification forms used to notify workers.

Section V – Placements (chronological order with most recent on top). Documentation required for each type of placement is listed below.

<u>Agency Approved Family Foster Home</u>

- Financial Agreement for LDSS Approved Providers (032-02-0052-03-eng.)
- Checklist Form (032-04-0054-01) with Documentation of date CPS/criminal background checks requested and received (dates shall be prior to child's placement in home).
- Foster Home Certificate of Approval.

<u>Licensed Child Placing Agency Family Foster Home</u>

- Financial contract/agreement.
- LCPA license (license shall be current).
- Foster Home Certificate of Approval.
- State form letter substantiating results of CPS/criminal background checks (dates shall be prior to child's placement in home).

<u>Residential Facility/Group Home</u>

- Financial contract/agreement.
- Facility/Group Home license (license shall be current).

Section VI – Annual Judicial Reviews & Related Court Orders – all court documents including but not limited to:

- Emergency Removal Order.
- Preliminary Removal Order.
- Dispositional Order.
- Foster Care Review Order.
- Permanency Planning Orders.
- Termination of Parental Rights Orders.
- Permanent Foster Care Orders.

Section VII – Payment Information

- Case Actions.
- Clothing Allowance Tracking.
- Any documentation regarding payment status of case.
- VEMAT page with approved payment.

Section VIII – Miscellaneous

- VACIS printouts.
- Medicaid documents.

Section IX – Prior Episodes of Foster Care Documents

1.2.6 OASIS access and verification

All Title IV-E workers shall be granted access to OASIS by the LDSS Director/LDSS Security Officer. The agency may decide if this is read-only access or full use. The eligibility worker should review his or her cases in OASIS quarterly to verify that the court hearings, placement, and payment category information is correct. The eligibility worker should notify the service worker and/or finance of any errors or discrepancies on the areas reviewed. Any reported errors that are unresolved longer than **two (2) weeks** should be referred to the Eligibility Supervisor for review and resolution.

1.2.7 Payment accuracy

Title IV-E funds are to only be used for allowable costs as defined by the Social Security Act for children who meet IV-E requirements. Included in the allowable maintenance costs are payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision/day care, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel for the child to visit with family or other caretakers and to remain in the school in which the child is enrolled at the time of placement.

Unallowable costs include any type of services payments under any circumstances, and regardless of who provides the service. Examples of services are:

- Counseling and therapy to help with a child's adjustment at the institution.
- Counseling and therapy to help a child resolve the problem(s) for which he or she was placed.
- Counseling and therapy with the child and his or her biological family to resolve the difficulties that led to the need for placement.
- Counseling and therapy to plan for the return of the child to the community.
- Psychological or educational testing.
- Evaluation and assessment.
- Mentoring or in-home services.
- Medical cost including doctor visits and prescriptions.
- Respite care or education services.
- Physical or occupational therapy.

The eligibility worker is responsible for determining eligibility for Title IV-E foster care and recommending accurate payments. Maintenance payments shall be verified to the amounts provided in the financial agreements and the VEMAT. The eligibility worker is also responsible for monitoring the amount paid annually for supplemental clothing and to ensure that it does not exceed the limits established by the State. All supplemental clothing allocations shall be verified through documentation provided by the service worker that the funds were used to purchase clothing for the designated child. This may include a purchase order to the store and receipt or a receipt from store(s) where the foster parents purchased the items. The decision as to the appropriateness and reasonableness of the items purchased is the responsibility of the service worker. Section 14.3 of the Foster Care chapter provides additional guidance for clothing purchases.

Documentation for state and federal reviews requires a complete payment history including invoice numbers, child and provider identification, date paid, period covered, type of payment/activity, and funding source. Invoices with ambiguous definitions or lump sum payment request shall be clearly identified as applicable to an allowable IV-E cost. Although this type of information is generally processed and maintained in the LDSS business office, each locality should ensure that eligibility, service, and finance staff are aware of the financial requirements.

1.2.7.1 Funding – categories of Title IV-E foster care costs

Title IV-E provides states Federal Financial Participation (FFP) for the costs of children placed in foster homes or other types of foster care under a court order or VPA (entrustment or non-custodial foster care). Title IV-E is an individual entitlement for qualified children who have been removed from their homes. For children who meet Title IV-E eligibility requirements, the federal government shares in the cost of:

- **Maintenance**. Maintenance costs are for payments associated with maintaining the child who has been removed from his/her home. For Title IV-E eligible children, the federal share of maintenance costs is based on the state Medicaid matching rate. States may claim FFP from the first day of placement in the month in which all Title IV-E eligibility criteria are met. If the full monthly payment is not due, prorating room and board for part of a month is based upon the actual number of days of care provided and the number of days in the month. Payments begin on the date a child is placed in the home and end as of the date prior to the removal date.

1.2.8 Confidentiality

Client information given to the agency will be kept confidential and will only be used as needed in the administration of Title IV-E and other related public assistance programs and services. The Code of Federal Regulations (45 CFR 205.50), and Virginia Code §§ 63.2-102 and 63.2-104 and § 2.2-3800 et seq., and Virginia Administrative Code 22 VAC 40-910-100, govern the confidential treatment of case information.

1.3 Entering foster care – Title IV-E removal requirements

The child shall meet the Title IV-E removal requirements to be Title IV-E eligible. Entry into foster care begins with a removal and transfer of custody or a voluntary placement by the legal custodians with the LDSS. Custody is a broad term which may include physical custody or legal custody. If legal custody is held by someone other than a parent, a copy of the court order granting the individual legal custody should be obtained and placed in the eligibility file. If no order is available, a written statement from the service worker or individual is acceptable as best available evidence of legal custody.

1.3.1 Types of removals

1.3.1.1 Court-ordered removal

- A judicial order for a physical or constructive removal of the child from a parent or specified relative (see Section 1.3.1.2).

- Judicial orders used for removal include, but are not limited to:
  - Emergency Removal Order (ERO), (form DC-526)
  - Preliminary Removal Order (PRO), (form DC-528)
  - Order for Custody Transfer to Agency, (form DC -562)
- A judicial determination regarding a child's removal from the home can occur on any District Court Order Form, or locally created court order that meets all federal requirements for Contrary to the Welfare and "Reasonable Efforts" language.

1.3.1.2 Voluntary Placement Agreement (VPA)

This is an agreement entered into by the parent(s) or legal guardian which leads to a physical or constructive removal of the child from the home.

Voluntary Placement Agreements include:

- Permanent and/or temporary entrustments.
  - Legal and/or physical custody transferred to LDSS.
- Non-custodial foster care agreements.
  - Physical custody transferred to LDSS and legal custody remains with the parent(s) or legal guardian.

Voluntary Placement Agreements do not include CSA Parental Agreements.

- Children with CSA Parental Agreements are not required to adhere to VDSS foster care policy, and as such are not considered to be "in foster care."
- Neither Title IV-E referrals nor Title IV-E funds shall be used for any costs for children under CSA Parental Agreements.

1.3.1.3 Physical removal

Physical removal occurs when the child is physically taken from his or her current place of residence and placed into a substitute care setting.

Example #1: The child was living with mother (who had legal custody) at the time the agency physically removed the child from the mother's home pursuant to a court order or VPA and subsequently placed the child in a foster care setting.

Example #2: The child ran away from home of parents and was residing in the home of a non-relative when agency was awarded legal custody. The child was physically taken out of the home of the non-relative and placed in a foster care setting.

1.3.1.4 Constructive removal

Constructive removal is considered a "paper removal." The agency has obtained legal responsibility of the child via a court order or VPA, but the agency does not physically remove the child from his or her current residence. In these situations the LDSS approves the home as a foster family home and the child continues to reside in that home while in foster care. The following conditions should exist for constructive removals:

- Child is left in his or her current residence.
- Legal custodian of child did not reside in the home at the time of the judicial order or VPA.
- Legal custodian meets the definition of a specified relative.
- Child and legal custodian did reside together within six months of the judicial order or VPA.

Example #1: The child resides in a three-generation household comprised of the child, his/her mother (who has legal custody), and his/her grandparent. Within six months prior to the eligibility month, the child's mother leaves the home. The agency places/leaves the child in the grandparent's home subsequent to the court order removing legal custody from the mother. The local agency begins a process to approve the grandparent as a foster home.

Example #2: On May 1 the parent(s) leave the child at grandmother's house for an overnight visit. The parent(s) never return for the child. On June 15, the grandmother contacts the LDSS to report that the child has been abandoned. A court hearing is held on June 23 and custody of child is transferred to the LDSS. The agency places/leaves the child with the grandmother and the agency begins a process to approve the grandmother as a foster home. All constructive removal requirements are met.

Example #3: The child resides in a three-generation household comprised of the child, his mother, and his grandparent. On February 23 the child's mother moves out of the home to live with her boyfriend. She leaves the child to remain living with the grandparent. A court order is issued on November 23 transferring legal custody from the mother to the LDSS. The agency places/leaves the child with the grandparent. Child is not Title IV-E eligible as the child and legal custodian have not lived together within six months of the judicial order.

Note: If an infant is taken directly from the mother after birth and placed into foster care, and the mother is a hospital patient or a prison inmate, the hospital or prison would be considered the removal home, and therefore also meet the "living with a specified relative" criterion.

1.3.2 Specified relative

1.3.2.1 Identification/Determination

The specified relative shall be related to the child by blood, adoption, or marriage and shall have legal custody at time of removal.

- Biological parents have legal custody until or unless that legal custody is terminated via court proceedings.
- Other relatives shall be related within the fifth degree of kinship to be considered a specified relative.
- Spouses of the specified relative within the fifth degree in which the marriage is terminated by death or divorce may also be considered a specified relative.

1.3.2.2 Documenting the specified relative

- Biological Parent(s)
  - No additional documentation is needed when the specified relative is the biological parent(s).
- All other relatives within the fifth degree of kinship.
  - A judicial determination will always exist if someone other than the biological parent has legal custody.
  - If available, a copy of the court proceedings awarding legal custody shall be maintained in the eligibility record.
  - If unavailable, a service worker or relative of the child may make a written, dated statement identifying who has legal custody.

Note: When evaluating court proceedings, terms such as “legal guardian” or “legal custodian” are acceptable, as long as the person obtaining legal custody has a clear legal responsibility for the day-to-day care of the child.

1.3.3 Removals that do not meet IV-E requirements

If the child does not meet Title IV-E removal requirements, the child cannot be Title IV-E eligible during that episode of foster care. The following are situations that do not meet Title IV-E removal requirements:

- Judicial determination was made to remove the child from the home, but the child was not removed either physically or constructively (see Section 1.3.1.4) within a reasonable amount of time.
- A VPA was executed, but the child remained in the home of the parent or legal guardian who entered into the agreement.
- The child had not lived with a parent or specified relative within six months prior to the initiation of court proceedings, or as of the date of the signed VPA.

1.3.4 Timeliness of removal

Although there is no defined amount of time from which a child shall be physically or constructively removed upon a court ordered removal or signed VPA, there are guidelines in Sections 1.3.4.1 and 1.3.4.2 for meeting the Title IV-E criterion of removal that should be used. Additional timelines for removal and court hearing dates are available in the Foster Care chapter, Section 12.4.

1.3.4.1 Timeliness considerations

The following shall be considered when evaluating if the child's removal from the home was timely:

- The judicial determination that results in the child's removal shall coincide with (i.e., occur at the same time as) the agency's action to physically or constructively remove the child, unless the court order specifies an alternative timeframe for removal.

  Example #1: A judicial order was issued on August 3 granting the LDSS custody of child. The judge issuing the order adds language to the order which states the child will be provided with temporary in-home service to protect the child and there is no physical risk to child. The child will remain in the home until August 6 at which time the child will be removed and placed into a residential facility.

- If a court makes a judicial determination that it is contrary to the child's welfare to remain at home (or similar language) and the child does, in fact, remain at home and no immediate removal occurs, the requirement for removal is not met and the child is ineligible for Title IV-E during the episode of foster care.

- Since VPAs are entered into on a prearranged, non-emergency basis, the child's removal and subsequent placement are expected to occur immediately.

1.3.4.2 Delayed placements into foster care

There may be situations which prevent the local agency from making an immediate placement into a foster care setting following a court order or VPA. These could include but are not limited to a child being hospitalized, the child is temporarily in detention or the child cannot be located.

These situations should be treated as an unallowable placement and the case record should clearly document why the placement date with a foster care provider does not coincide with the court order or VPA. The Title IV-E case would not be approved for IV-E payments until the child is placed.

1.3.4.3 Physical removals prior to a judicial order

The Code of Virginia (§ 63.2-1517) provides authority for protective service workers of an LDSS, physicians, or law-enforcement officials, investigating a report or complaint of abuse and neglect, to take a child into custody for up to 72 hours without prior approval of parents or guardians. If the 72-hour period for holding a child in custody expires on a Saturday, Sunday, or other legal holiday, the 72 hours shall be extended to the next day on which the court is not lawfully closed (CPS chapter, Section 3)

- In this situation, typically an emergency removal order (ERO) or preliminary removal order (PRO) is issued **within 72 hours** of the child's physical removal from the home. If no order is issued the child is not in foster care and will be returned to his home.

- A child is considered to be in foster care beginning with the date of the physical removal from the home.

  Example: Child physically removed on 10-2-10 which is a Saturday. The LDSS places the child into a family foster home. The court hearing is held on 10-4-10 which is the date of the signed court order. Title IV-E reimbursement could begin as early as 10-2-10 (the first day of placement) if all Title IV-E eligibility conditions are met in October.

  Note: Federal policy states "reimbursement may begin from the first day of placement in the month in which all Title IV-E requirements are met."

1.4 Title IV-E application process

A Title IV-E eligibility determination process begins the moment the LDSS obtains legal custody of the child via court order or an entrustment, or physical custody via a signed non-custodial foster care agreement. The determination process requires proactive communication between local eligibility, service, and fiscal staff to gather and share information in the effort to make a timely and accurate Title IV-E eligibility determination.

1.4.1 Application referral

All children who enter foster care shall be referred to eligibility staff for an initial evaluation of Title IV-E eligibility and Medicaid **within ten (10) calendar days** of removal from the home. Services staff are responsible for completing the Title IV-E Foster Care & Medicaid Application/Redetermination (form # 032-03-0636-02) and transferring the completed form to the eligibility worker (Foster Care chapter, Section 4.5.1). The service worker is responsible for referring and providing information to the eligibility worker that is used in making the Title IV-E eligibility determination.

1.4.1.1 Application date

The date of application is considered to be the date the judge signs the court ordered removal, or the most recent date when all the required signatures on the VPA are obtained.

1.4.1.2 Application process

The completed Title IV-E Foster Care and Medicaid Application shall be submitted by services staff to eligibility staff for evaluation along with:

- A copy of the initial court order placing custody with the LDSS (with petition if applicable), or VPA (see Section 1.3.1.2).
- Any other supporting documentation in reference to the Title IV-E Foster Care and Medicaid Application which may include, but is not limited to:
    - Social security number (SSN), or proof of application.
    - Birth verification.
    - Citizenship or alien status.
    - Foster care placement approval/license documentation.
    - “501 form” – Absent Parent/Paternity Information (032-03-0501-06) (see Section 1.8).

Note: If the child enters foster care through a non-custodial foster care agreement, a separate Medicaid application form shall be submitted by the child's legal guardian (see Section 1.9).

If new or additional information that will affect the eligibility determination is obtained by the service staff after the ten-day referral period, the information shall be communicated to the eligibility staff immediately.

1.4.2 Initial evaluation

Upon receiving the "Title IV-E Foster Care and Medicaid Application", eligibility staff shall make an initial Title IV-E eligibility determination by completing the Title IV-E Initial Foster Care & Medicaid Evaluation (form # 032-03-0635-02).

1.4.2.1 Evaluation process

The "Title IV-E Foster Care and Medicaid Application", is evaluated by the eligibility staff and reviewed to determine if additional information is needed. If additional information is needed, service staff should be notified **within two (2) days** to allow sufficient time to obtain the information to meet the 45-day processing time frame.

1.4.2.2 Disposition of application

There are three (3) possible determinations related to Title IV-E eligibility that may be made:

- **Eligible**. The child meets the initial Title IV-E eligibility criteria which means documentation exists of:
    - Evidence of judicial removal as a result of judicial determinations of "contrary to the welfare" and "reasonable efforts" or via a VPA.
    - Responsibility for placement and care vested with the State Title IV-E agency (i.e., LDSS).
    - Eligibility for AFDC under the State plan as it was in effect on July 16, 1996, or earlier, if the child was removed before this date.
    - Placement in a licensed or approved foster family home or child care institution.
    - Verification of safety requirements for children placed in foster care.

Refer to Section 1.7 to determine the entitlement begin date. Title IV-E eligibility will continue for the duration of that foster care episode unless the child loses eligibility as a result of one of the instances provided in Section 1.10.1.

However, if new information is received which indicates incorrect information was used to conduct the initial screening, a new initial screening shall be conducted.

- **Ineligible**. The child did not meet initial Title IV-E eligibility criteria listed above.
  - A finding of ineligible during the initial eligibility evaluation process may prevent the child from being Title IV-E eligible for a specified period of time or for the duration of that episode in foster care. Remedial corrections that would allow a case to become eligible for payment include obtaining reasonable effort language within 60 days of removal or when the placement is fully approved/ licensed. In a situation where the initial court order did not provide Contrary to the Welfare language, the case would be ineligible for the entire episode in foster care. Corrections cannot be made to court orders (nunc pro tunc orders) which amend or change contrary to the welfare or reasonable efforts language. Administrative errors (e.g., the wrong year was written on the order) may be corrected with a written statement or "nunc pro tunc' order from the court (see Section 1.5.3) verifying the correct date upon which the hearing was conducted and that the original date was an administrative oversight.
- **Denial**. This is temporary status due to insufficient information being provided for a full determination.
  - The case shall be evaluated at a later date once information becomes available.
  - Denial based on inability to obtain needed information during the screening process is not permanent and the case may be re-screened at a later date once information becomes available. Cases denied in VACIS for this reason (denial code 57) shall be monitored by the eligibility supervisor monthly in order to ensure that workers follows-up until a final determination in the initial IV-E eligibility is made.

1.4.2.3 Title IV-E eligibility disposition – Notice of Action (NOA)

Upon rendering the disposition of Title IV-E eligibility, the Title IV-E Notice of Action (Form # 032-04-0079) will be completed and communicated to the service worker and fiscal staff. This communication will help ensure timely and accurate use of Title IV-E and/or state funds.

All correspondence with the payee regarding the Title IV-E payment shall be done by the service worker.

1.5 Initial Title IV-E eligibility screening

Initial Title IV-E eligibility evaluation requires compliance with judicial language requirements and Aid to Families with Dependent Children (AFDC) relatedness criteria. If the child fails to meet either of these requirements, the child cannot be Title IV-E eligible at any point during this episode of foster care.

AFDC relatedness criteria, is based on Title IV-A (AFDC), Part A, of the Social Security Act. In all references to AFDC relatedness, the eligibility of the child is based on the AFDC program in effect in Virginia's State Plan on July 16, 1996.

If a child is initially determined IV-E eligible, the child continues to be Title IV-E eligible while under the legal responsibility of the agency. If placement and licensing requirements are not met or annual judicial hearings are not completed when due, the child will not be Title IV-E eligible for any payments until the requirements are met.

1.5.1 Judicial language requirements – court-ordered removal

After the LDSS receives legal responsibility, even temporarily, through a court order, the following judicial language criteria shall be evaluated: contrary to the welfare/best interest, and reasonable efforts.

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

For a child to be Title IV-E eligible, the <u>initial</u> court order authorizing removal of the child shall include and properly indicate (e.g., a check box) a statement that continuation in the home would be contrary to the welfare of the child or similar language to the same effect. If the initial determination does not satisfy the CTW/BI language requirement, the child cannot be Title IV-E eligible for the duration of that foster care episode.

- The initial court order authorizing removal of the child is usually either the Emergency Removal Order (ERO) or the Preliminary Removal Order (PRO), but can be made on any type of judicial determination that meets all federal requirements.

- The service worker shall make every effort to ensure that the initial judicial determination authorizing the removal of the child includes the required language.

Examples of CTW or BI language:

- "The child would be subjected to an imminent threat to life or health … if the child were returned to or left in the custody of his or her legal guardian."

- "Continued placement in the home would be contrary to the welfare of the child."

- "It is in the best interest of the child to be removed from the parent or legal guardian."

Note: Title IV-E judicial language requirements apply to delinquent youth and children in need of services (CHINS) placed in foster care pursuant to a court order. It is permissible to include language referencing community protection, but judicial language that addresses the reasons why remaining in the home is contrary to the individual juvenile's welfare must appear. Court orders lacking CTW language shall result in the child being Title IV-E ineligible for the entire foster care episode.

1.5.1.2 Reasonable Efforts (RE)

Title IV-E cannot be granted prior to obtaining a judicial determination with acceptable reasonable efforts language. There shall be a court order within 60 days after the child's physical removal that contains a judicial determination that "reasonable efforts to prevent removal" or "reasonable effort to prevent removal were not required" has been made.

Note*:* Typically the RE language requirement is satisfied on the initial order placing the child in the custody of the LDSS.

- If the "reasonable efforts" judicial determination has not been obtained within 60 days from the child's physical removal, the child cannot be Title IV-E eligible for the duration of that foster care episode.

- This requirement does not apply to children brought into foster care pursuant to a VPA (see Section 1.5.2.2).

- Reasonable efforts to prevent a child's removal from the home is not required if the agency obtains any judicial determination within 60 days from the child's physical removal that:

- Parental rights have been terminated;
- The parent(s) have been convicted of certain crimes; or
- The child has been subjected to certain aggravated circumstances.

Examples RE language:

- "Reasonable efforts have been made to prevent removal of the child from his or her home."
- "Reasonable efforts are deemed to have been made to prevent removal of the child from his or her home because there was no reasonable opportunity to provide preventive services."
- "The court finds that the agency made reasonable efforts to maintain the child in his/her own home."
- "Due to the circumstances presented, there was an immediate danger to the child which would not have been mitigated by the provision of preventive services."

1.5.2 Judicial language requirements – VPAs (entrustment or non-custodial foster care agreement)

When a child enters foster care through a VPA, the only judicial language criterion is contrary to the welfare (CTW)/best interest (BI). See Section 1.3.1.1 for VPA types. There are no initial judicial language requirements for children who enter care through a VPA. Title IV-E eligibility is permitted for the first 180 days of the foster care placement.

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

To extend Title IV-E eligibility beyond 180 days, judicial language shall be obtained to the effect that continued voluntary placement is in the child's best interest. This judicial determination may be made at any time during the 180 days following the final required signature on the agreement. If the CTW/BI judicial language requirement is not made by the 180th day, the case becomes Title IV-E ineligible on the 181st day and will remain ineligible for the duration of this foster care episode.

Note: Although custody transfer to the LDSS may occur, it is not requisite to meet Title IV-E eligibility requirements.

1.5.2.2 Reasonable Efforts (RE)

Reasonable efforts to prevent a child's removal from the home is not required when the child enters foster care pursuant to a VPA.

1.5.3 Documentation for judicial determinations

- **Affidavits and Nunc Pro Tunc**. Neither affidavits nor nunc pro tunc orders will be accepted as verification documentation in support of "reasonable efforts" and/or "contrary to the welfare" determinations. A nunc pro tunc order is an order in and of itself that provides new information to a previous court order in an effort to include specific information that was inadvertently omitted. Nunc pro tunc is Latin which means "now for then."

- **State Law**. Court orders solely referencing Virginia Code or Regulation to substantiate judicial determinations are not acceptable.

- **Court Transcript**. Although federal IV-E rules allow a transcript of the court proceedings as acceptable documentation that the judicial determinations were made at the initial court hearing, this is not an option in Virginia since Virginia's courts do not make transcripts of these hearings.

- **Effective Date**. The court order effective date is the date the judge signed the completed court order; it is not necessarily the date of the hearing.

1.5.4 AFDC relatedness

In order to be eligible under Title IV-E, a child shall have been eligible for AFDC (as it existed in the State's Title IV-A plan on July 16, 1996) in the specified relative's home from which the child was legally removed and during the eligibility month. If the child was not eligible in the specified relative's home from whom the child was legally removed, the child will be ineligible for Title IV-E for the duration of that episode of foster care.

1.5.4.1 Verification methods

All AFDC relatedness criteria shall be verified. A copy of each document used for verification shall be maintained in the eligibility case record. In most situations, the eligibility worker shall examine other third party sources, such as state and federal information systems, for verification.

- **Written Statement**. The use of a written statement made by the service worker, legal guardian, or other relative, may be used for AFDC verification purposes. The written statement shall be signed and dated by the person making the statement. The person making the written statement shall have an intimate knowledge of the child's situation and

can attest that the information provided on the written statement is accurate.

- **Best Available Evidence**. This is a term that describes the allowable use of documentation that, based upon a preponderance of evidence, can be reasonably viewed to satisfy certain Title IV-E eligibility requirements for Deprivation, Financial Need including resources and income, and the Removal Home and Specified Relative. The eligibility worker shall always seek the most complete and accurate documentation. The use of best available evidence can only be used to satisfy AFDC relatedness and not for any other Title IV-E criteria. The areas where the "best available evidence" criterion cannot be applied are with respect to initial petitions, court orders, voluntary agreements, proof of citizenship or qualified alien status, and documentation of mental or physical disability. The federal law requires that these documents be in the case records to support the determination of Title IV-E eligibility.

  Workers should not delay eligibility determinations if the documentation is sufficient to make an informed, reasonable decision. The information reported by the service worker is acceptable as the best available information of eligibility factors, unless the eligibility worker has conflicting information from another source. Eligibility workers should use prudent judgment in determining what evidence substantiates IV-E eligibility. Information obtained from agency records or computer matches is also acceptable, if the agency is satisfied that the information reasonably reflects the assistance unit's situation in the eligibility month. Databases that may be accessed include ADAPT (Application Benefit Delivery Automation Project), APECS (Automated Program to Enforce Child Support), SVES (State Verification Exchange System), DMV (Department of Motor Vehicles), SPIDeR (Systems Partnering in a Demographic Repository) and VEC (Virginia Employment Commission) wage records. Self-declared income statements are acceptable under this standard.

  The eligibility worker shall document the case record with respect to the method and source of information used in establishing eligibility.

1.5.4.2 Citizenship/Alien requirement

The eligibility worker shall verify United States (U.S.) citizenship or qualified alien status for the foster care child to meet AFDC eligibility requirements. If the child does not meet the AFDC citizenship/alien requirement, the child cannot be Title IV-E eligible during this episode of foster care.

- **U.S. Citizenship**. U.S. citizenship include individuals who are:
  - Born within the United States, regardless of the citizenship of his parents; or
  - The Child Citizenship Act (CCA) declares that children who are younger than 18 years of age and have at least one parent who is a US citizen whether by birth or naturalization who immigrate to the United States with a U.S. citizen parent automatically acquire US citizenship upon entry for lawful permanent residence; or
  - Born outside the United States of alien parents and has since been naturalized as a U.S. citizen. A child born outside the United States of alien parents automatically becomes a citizen after birth if his parents (the mother, if born out of wedlock) are naturalized before he becomes 16 years of age.
- **Qualified Alien**. As indicated in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, the term "qualified alien" refers to:
  - An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
  - An alien who is granted asylum under section 208 of the INA;
  - A refugee who is admitted to the U.S. under section 207 of the INA;
  - An alien who is paroled into the U.S. under 212(d)(5) of the INA for a period of at least one year;
  - An alien whose deportation is being withheld under section 243(h) the INA as in effect immediately before April 1, 1997, or section 241(b)(3) of the INA;
  - An alien who is a Cuban or Haitian entrant; or
  - An alien (or the child of parent) who has been battered or subjected to extreme cruelty in the U.S.
- **Unqualified Alien**. Unqualified aliens do <u>not</u> meet the citizenship criterion for AFDC and are not Title IV-E eligible. Aliens who do <u>not</u> meet the qualified requirements include, but are not limited to:
  - Undocumented aliens;

- Aliens legally admitted on a temporary basis for work, study, or pleasure; or
- A child who is in the U.S. under a visitor or tourist's visa or under a student arrangement.

1.5.4.3 Age requirement

To meet the AFDC age requirement, the foster child shall have been under the age of 18 years old at the time of removal via court order or VPA.

1.5.4.4 Eligibility month

AFDC relatedness criteria shall be based upon information within the eligibility month. The eligibility month is the month a petition was filed or court proceedings were initiated to remove the child or the month a VPA is signed by the last party whose signature is required. An example of the initiation of court proceedings is typically a petition for removal.

Example: LDSS agency files a petition for a child's removal from his/her mother on April 28th. The court order date authorizing his removal was held on May 1st and the child was immediately taken into care. Since the initiation of court proceeding (the petition) was made in April, the eligibility month for AFDC purposes is April.

1.5.4.5 Removal home/living with requirement

"Removal home" for AFDC relatedness purposes means the home of the specified relative (see Section 1.3.2) from whom the child was legally removed. A child shall have been living with the specified relative who had legal custody during, or within six months prior to, the eligibility month.

- **If the child was not living with the specified relative who had legal custody** but was living with an interim caretaker at time of removal, federal policy allows for a six month "look-back" period to establish if the child lived with the specified relative who had legal custody at any time during the six months prior to the eligibility month. If the child was living with the specified relative who had legal custody at the time of removal, there would be no six month look-back policy applied.

  Example #1: Child physically removed from the home of grandmother on 3-3-10 (court order dated 3-3-10). The grandmother did not have legal custody. The grandmother was an interim caretaker therefore the six-month look-back policy would be applied to determine if the child had lived with the specified relative from whom legal custody is being removed. Legal custody of child remained with parents. The child last

lived with the parents 11-12-09 which is within six (6) months. The child would meet the AFDC living with requirement.

Example #2: Legal custody of child is with a non-relative. Child is removed from the home of the non-relative on 4-8-10 via a court order. Because legal custody is held by a non-relative, this child cannot be IV-E eligible as legal custody shall be with a specified relative at the time of removal. The six-month look-back period would not apply.

Example #3: Child is removed from the home of aunt who had legal custody of child at the time of removal. No six-month look-back would apply as the child lived in the home of specified relative who had legal custody at time of removal.

- When counting the six-month look-back period, the eligibility worker looks at the six months prior to the eligibility month. However, if applying the six-month look-back to determine living with requirements, it will not change the eligibility month used for AFDC screening. If the child meets the six-month look-back requirement, the eligibility worker shall include the child in the specified relative's home during the eligibility month to conduct the AFDC screening even though the child was physically residing elsewhere.

Example #4: Child removed from the home of an interim caretaker via a court order dated 6-23-10. The eligibility month is June 2010. The six month look-back period would go back to December 2009. If the child lived with the specified relative who had legal custody at any time between December 1, 2009 and May 31, 2010, the living with requirement is met. The child will be considered to have been living with the specified relative during June 2010.

- A child is considered to be living in the home even though the child or specified relative is temporarily absent from the customary family setting for reasons such as hospitalization, education or training, a vacation, or a visit. Additionally, a home may exist in situations where the family lacks a fixed home address or is otherwise considered homeless as long as the specified relative is exercising responsibility for day-to-day care and control of the child.

- If the child does not meet the requirements for living arrangements, the child cannot be Title IV-E eligible during this episode of foster as the child has failed to meet one of the conditions of AFDC relatedness.

- If an adjudicated delinquent is taken directly from detention (not corrections) and placed into foster care, the State shall establish the child's eligibility at removal (which includes meeting the AFDC eligibility requirements and judicial determinations to the effect that the child's removal from the home was contrary to his/her welfare and that reasonable efforts were made to prevent such removal) even for children who are not initially placed in a foster care setting.

Note: If an infant is taken directly from the mother after birth and placed into foster care, and the mother is a hospital patient or a prison inmate, the hospital or prison would be considered the removal home, and therefore also meet the "living with a specified relative" criterion.

1.5.4.6 Assistance Unit (AU)

The AFDC assistance unit is the grouping of persons who were residing in the removal home at the time of the child's physical removal whose income and resources shall be considered during the eligibility month when evaluating AFDC eligibility. The assistance unit is required to include the parent and minor siblings of the child entering foster care. When the household consists of more than one group of children, the determination of which children will comprise the AU is based on the legal responsibility of the parents living in the home during the month of removal. Children who are siblings of the child entering care are required AU members.

Changes which occur in the removal home after the child's physical removal cannot be used to find the child eligible or ineligible.

- **For children legally removed from the parent's home** (biological or adoptive), the AU shall include all of the following individuals who were residing in the removal home at the time of the child's physical removal.
  - The foster child.
  - Birth or adoptive parents.
  - Any minor siblings (birth, adoptive or half) of the child.
  - The legally acknowledged parent (biological/adoptive/step) of any minor sibling (biological/ adoptive/half) who is in the assistance unit.
- **For children who were removed from the home of a specified relative other than a parent,** the AU shall include all of the following individuals residing in the removal home at the time of the child's physical removal and whose income and resources shall be considered during the eligibility month when evaluating AFDC eligibility.

- The foster child.
- Any minor siblings (birth, adoptive or half) of the child.
- The legally acknowledged parent (biological/adoptive/step) of any minor sibling (biological/ adoptive/half) who is in the assistance unit.

Exceptions:

- **Supplemental Security Income (SSI) recipients**: If the child entering foster care receives SSI, the child shall be included as a member of the Assistance Unit. The SSI income and resources of the child are not considered in determining AFDC eligibility but, any other income (such as SSA, Veteran's, and child support) is counted. If there are any other household members who receive SSI, they are not included in the Assistance Unit and as such, the income and resources of those members are not considered in determining AFDC eligibility.

- **Any sibling who is receiving adoption assistance (IV-E or State assistance)** shall not be counted toward the total number of AU members, and as such, the income and resources of that household member receiving adoption assistance shall not be considered in determining AFDC eligibility. If the only AU member is the child being removed who is an adoption assistance recipient, the child shall count toward the AU member size, but the income and resources of that child is not considered in determining AFDC eligibility.

- **Any child of the foster child** shall not be counted toward the total number of AU members and as such, any income and resources are not considered in determining AFDC eligibility.

- **Other children who are not siblings** of the child entering foster care are not required units members and must be excluded when determining initial eligibility.

- **Any parent that is not a U.S. citizen or qualified alien** as described in Section 1.5.4.2, shall not be counted toward the total number of AU members, and the income and resources of that parent shall not be considered in determining AFDC eligibility. However, their income should be deemed using the procedures in Section 1.5.4.11.

1.5.4.7 Deprivation requirement

To meet the AFDC relatedness requirement of deprivation, the child shall be deprived of the support or care of at least one biological or adoptive parent in the home during the removal month. Deprivation shall be met in the month of, but prior to, the child's removal from the home. The establishment of the child's deprivation may not be based on household circumstances that occur after a child's removal.

Example: Child removed from the home of mother on April 8. The household composition on April 8 consisted of the child and mother. Child was deprived based on the absence of the father. On April 20 the biological father of the child returned to the removal home. For initial screening purposes, the AFDC assistance unit will consist of the child and mother only. The father will not be included in the AFDC assistance unit as he was not in the home at the time of removal.

Types of Deprivation. Deprivation shall be established under at least one of the following circumstances:

- **Death of a biological or adoptive parent.**
- **Continued absence of a biological or adoptive parent from the home** means that the parent's known or indefinite length of absence interrupts or ends his/her functioning as a provider of maintenance, physical care, or guidance for the child. The following includes, but are not limited to, typical situations of continued absences:
    - Separation or Divorce: One of the parents is no longer living in the same house.
    - Institutionalized/Incarcerated: One of the parents is in an institution or incarcerated.
    - Deportation: One of the parents is deported outside the United States.
    - Paternity not established.

  Note: Military service (includes active or reserve/national guard status) does not constitute a continued absence and does not meet the definition of deprivation.

Note: A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence is considered absent from the home. Once the sentence is complete, the convicted offender can be included in the AU.

- **Physical or mental incapacity of a biological or adoptive parent** by having a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and shall be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the child. Verification of a parent receiving Supplemental Security Income (SSI) or Old Age, Survivors, and Disability Insurance (OASDI), is sufficient as documentation of deprivation.

- **Unemployment of the Parent** occurs when the child lives with both parents and is deprived of parental support based on unemployment by either parent. Both parents shall live in the home and neither may be disabled.

1.5.4.8 Treatment of resources

Resources are considered available to those members of the assistance unit during the eligibility month both when actually available, and when the member has a legal interest in a liquid asset and has the legal ability to make such assets available. Additionally, "life rights" do not meet the definition of ownership. A resource is determined by its equity value, which is the current market value minus any debts.

- **Resource Limit**. The maximum value of resources available to child's AFDC assistance unit shall have a combined value of not more than $10,000 for the child to meet the resource limit for the financial need criterion. If the AFDC assistance unit's resources exceed $10,000, the child will not be Title IV-E eligible for the duration of that foster care episode.

- **Countable Resources**. These are resources available to the assistance unit that are to be included (countable) when making a financial need determination. **Countable resources include, but are not limited to**:

  - Checking accounts.
  - Savings accounts.
  - Credit union savings.
  - Savings bonds.

- Accessible trusts.
- Stocks/Mutual funds.
- 401K accounts.
- Real estate/vacation home/income property.
- Vehicles (If one vehicle is owned, the equity in that vehicle in excess of $1,500 is counted as a resource.) If more than one vehicle is owned, the equity of all other vehicles is counted as a resource.
- Cash value of insurance policies owned by members of the assistance unit.

- **Exempt Resources**. Resources available to the assistance unit that are to be excluded (non-countable) when making a financial need determination regarding the resource limit. Exempt resources include, but are not limited to:
  - Monetary or in-kind value of benefits received from federal or state assistance programs.
  - Inaccessible trusts.
  - Burial plot (one per assistance unit member).
  - Bona fide funeral arrangements of up to $1,500 equity value (one per assistance unit member).
  - Home of residence, lot and all contiguous property.
  - Household furnishings and clothing.
  - Undergraduate or graduate federal or state school loans or grants.
  - Farm/business inventories used to produce income.

Note: The resource limit prior to November 1, 1997 is $1,000. The resource limit from November 1, 1997 to December 13, 1999 is $5,000 due to the implementation of the Adoption and Safe Families Act of 1997. The resource limit after December 14, 1999 is $10,000 due to the Chafee Foster Care Independence Act of 1999.

1.5.4.9 Income standard

- **Total Countable Gross Income**. The gross amount of countable income received during the eligibility month by the AFDC assistance unit is countable earned and unearned income, which includes deemed income, of the assistance unit.

- **Countable Earned Income** refers to earned income of an AU member by receipt of wages, salary, commission, and/or through self-employment prior to any deductions for taxes. Countable earned incomes include:

  - Wages, salaries, tips (before taxes).
  - In-kind income for work (e.g., shelter received for work).
  - Jury duty pay.
  - Vacation pay.
  - Worker's Compensation.
  - Self-employment minus business expenses.
  - Severance pay.
  - Bonuses.

- **Countable Unearned Income** is income received by an AU member for which no service is performed. Countable unearned incomes include:

  - Armed forces pension or disability allotment.
  - Child support/alimony, minus first $50 received per month by the assistance unit.
  - Disability insurance.
  - Non-recurring lump sum payment received <u>during</u> the eligibility month (**Examples**: retroactive Social Security benefits, stock dividends, life insurance settlements, etc.).
  - Income continuation payments/royalties.
  - Inheritance payments.
  - Interest, (cash assets, bank account, certificate of deposit).

- Retirement or Pension (union, private or government).
- Social Security benefits (excluding SSI).
- Unemployment compensation.
- Striker's benefits.
- Income deemed from stepparents and ineligible alien parent (see Section 1.5.4.11).

- **Exempt Income**. Certain types of earned and unearned income are excluded (non-countable) when determining if the child meets the financial need requirement for AFDC eligibility. Sources of earned and unearned income that are excluded per person include, but are not limited to:
  - Payments from: Supplemental Security Income (SSI); Auxiliary Grant (AG); Temporary Aid for Needy Families (TANF); or Virginia Initiative for Employment Not Welfare (VIEW); etc.
  - Food programs, (e.g. Food Stamps, WIC, etc.).
  - Earned income (including financial aid) of a dependent child who is a full-time student.
  - Current monthly support obligation or a voluntary support payment received by the assistance unit not to exceed $50.
  - Undergraduate or graduate federal or state school loans or grants and work study programs.
  - Training allowances from the Virginia Department of Rehabilitative Services.
  - Foster care or adoption assistance payments.
  - Veteran benefits for education if VA is the only source of educational assistance. If other educational benefits are available, the entire amount of the VA benefit may be disregarded if VA benefit is used to help purchase tuition, books, fees, school equipment, or transportation to and from school.
  - Trust funds not available on demand.
  - Loans, including reverse equity loans, endorsed for repayment.

- Income tax refunds (Earned Income Tax Credit).
- Housing and Urban Development (HUD) Section 8 and Section 23 payments.
- Federal major disaster and emergency assistance.
- Small non-recurring gifts not to exceed $30 per calendar quarter (e.g. birthdays, graduation, etc.).

1.5.4.10 Income conversion

When determining the earned and unearned income amount of the child's AFDC assistance unit, when possible use the actual monthly gross income received in the eligibility month. If the worker has to convert income payments into an average monthly amount use the following method:

- **Weekly**. Income received weekly is multiplied by 4.3.
- **Biweekly**. Income received every two weeks is multiplied by 2.15.
- **Semimonthly**. Income received twice per month is multiplied by 2.

1.5.4.11 Deeming income

In certain situations, the income of an individual living in the removal home who is not included in the AFDC assistance unit shall be evaluated to determine if any portion of that individual's income is considered available to the AFDC assistance unit. This process is called "deeming." All deemed income is considered as unearned income to the AFDC assistance unit.

- **Deeming Groups**. The person(s) whose income is deemed toward the child's assistance unit are:
  - Stepparent. The stepparent was living in the removal home but is not included in the AFDC assistance unit. Income of a stepparent will be deemed available regardless of whether the legal parent of the child is also living in the removal home. Divorce terminates the stepparent's financial responsibility.
  - Alien parent. The parent was living in the removal home but is ineligible for AFDC due to his alien status.
- **Deeming Procedures**. The following steps are to be used in deeming the income of individuals whose income is deemed toward the child's assistance unit but is <u>not</u> a member of the assistance unit :

- **Step 1**: Determine the deeming group's countable gross earned income in the eligibility month;
- **Step 2**: Subtract a $90.00 earned income deduction from the wages of each person in the deeming group that is working;
- **Step 3**: Add countable unearned monthly income;
- **Step 4**: Subtract any court ordered child support and alimony paid by member of the deeming group to support individual who is not in the household;
- **Step 5**: Subtract any payments made by members of the deeming group to individuals not living in the home but who are or could be claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability; and
- **Step 6**: Subtract the 100% Standard of Need amount for the deeming group's AFDC group size.
- **Step 7**: The total remaining is the Total Deemed Income.

- **Total Deemed Income**. This is the portion of the income that shall be included as unearned income to the child when determining if the child meets the financial need criterion.

1.5.4.12 Standard of need

The eligibility worker shall determine the number of members in the AFDC assistance unit (see Section 1.5.4.6) to determine the total income that is available to the child. The total countable gross income of the AFDC assistance unit is then evaluated against a two-part Standards of Need comparison. Localities in the State have been assigned to AFDC Grouping 1, II, or III. The Standard of Need is to be applied based on the LDSS groupings.

- **Part One**. The total countable gross income of the child's AFDC assistance unit shall be equal to or less than the amount indicated for the number of members in the AFDC assistance unit on the 185% Standard of Need Income Chart. If the total countable gross income is equal to or less than the indicated amount, proceed to Part Two. If the countable income is above the 185% Standard of Need limit, the child is not Title IV-E eligible for the duration of that foster care episode.

- **Part Two**. This is done by subtracting allowable deductions from the countable earned income, and then adding the adjusted earned income to the countable unearned income. The total countable adjusted income

of the child's AFDC assistance unit is then evaluated against the 100% Standard of Need Income Chart.

1.6 Ongoing requirements

Use of Title IV-E funds for the maintenance needs of children who have been screened and found eligible for Title IV-E may vary over the course of a foster care episode. A child may lose and regain eligibility for payments on a frequent basis depending on the specific changes which might occur in the child's situation. Ineligibility may not permanently deprive the child of future Title IV-E payments during the current foster care episode.

Certain conditions that render a previously Title IV-E eligible child as ineligible may be corrected. If corrected the child is Title IV-E eligible.

The eligibility worker shall advise the service worker and any required agency fiscal staff of the eligibility status and the duration of any periods for which IV-E funds cannot be used by completing Notice of Action Form (032-04-0079). This NOA form should be completed for an increase/decrease in payment, suspension or reinstatement of the maintenance payment, and termination due to the child's ineligibility for Title IV-E.

The following items may, under certain circumstances, impact the child's payment eligibility:

- Age.
- Placement.
- Voluntary placement lasting 180 days and the LDSS has not obtained a court order with a judicial determination to the effect that continued voluntary placement is in the child's best interest.
- Financial Needs-Income and resources, SSI.
- Ongoing annual judicial review.
- Timely annual VEMAT assessments.

1.6.1 Age

A child is eligible to receive assistance until he/she reaches the age of 18. The child is eligible for the entire month in which his or her 18th birthday occurs if they have not attained age 18 on the first day of that month.

Eligibility may continue beyond the age of 18 if the child is enrolled in a secondary school or vocational/technical school of secondary equivalency and expected to complete the high school or vocational/technical program prior to or in the month of his or her 19th birthday. The eligible 18 year old child is considered to be enrolled full-time, regardless of the number of courses or length of time in school. The child is eligible for the month in which completion of the school program occurs; however, eligibility cannot be extended past that month. The program is considered completed on the last day of final exams or, if exams are not required, the last day of scheduled classes, or the date the graduation ceremony is scheduled to occur, whichever is most advantageous in providing IV-E assistance to the child.

Under no circumstances shall eligibility continue beyond the child's 19th birthday. If, at any time during the child's 18th year, it is determined that the child will not complete the program of study by the month of his 19th birthday, the child's IV-E eligibility ceases effective the date that notification is received. The eligibility worker shall document when this case is no longer eligible for payment.

1.6.2 Placements

The child shall reside in a placement that meets Title IV-E eligibility requirements. Placements may be in foster family homes or child care institutions. All family foster homes or child care institutions shall be fully approved or licensed by the state in which the home or facility is located. All children in foster care placement are eligible to receive maintenance payments. Maintenance is defined by federal law as: payments made on behalf of a child to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel for the child to visit with family or other caretakers and to remain in the school in which the child was enrolled at the time of placement. Since foster care maintenance payments are not salaries, foster parents shall often work outside the home. Therefore, child care that provides daily supervision during a foster parent's working hours when the child is not in school is an allowable expenditure under title IV-E. Section 10.4.3 of the Foster Care chapter provides the details for appropriate daycare costs and use of funds.

Every time a child changes placement, the service worker is to report the change **within three (3) days** to the eligibility worker and provide the required foster home certificates, checklist, license, verification of criminal records and CPS verifications and financial agreement for the placement.

Note: Whenever a child is absent from the foster care placement, the eligibility worker shall determine if the absence will impact the payment to the foster parents. If the absence is temporary (not to exceed 14 days) and the child returns to the same provider, the provider may be paid for the entire month. Temporary absences from the placement for reasons such as hospitalization, education or training, a vacation or a visit do not affect payment. However, if the absence exceeds 14 days

or the child does not return to the same provider, the payment shall be prorated based on the actual number of days the child was in each placement. The last day of the placement is not included in the prorated payment.

1.6.2.1 Emergency foster home placement

This is a foster family home where a child may be temporarily placed for up to 60 days until a more appropriate placement is found or the home is approved. Standards for emergency approval and requirements for a criminal background checks and child abuse and neglect central registry searches shall be met. Homes approved on an emergency basis where a temporary or permanent variance has been issued for non-safety standards are fully approved and Title IV-E funds may be used for an eligible child. However, foster homes granted a temporary variance shall only remain fully approved and eligible for the use of Title IV-E funds if they comply with all requirements of the temporary variance. Title IV-E payments cannot be made for care in a home that does not fully meet standards. Placements in an emergency foster home through an agency such as VEFC are allowable placements. Although volunteers do not receive payment for shelter, food and supervision, IV-E funds may be used for clothing and daycare or other allowable maintenance expenses.

1.6.2.2 Resource family homes

These are private homes that have been dually approved to provide parenting to foster and, if necessary, adopt a child placed in the home. Resource homes shall meet standards established by the State Board of Social Services and be approved by a LDSS or a LCPA. Homes may be providers for more than one agency.

These homes receive a basic maintenance payment based on the age of the child and may also receive enhanced maintenance payments as a result of use of the VEMAT.

1.6.2.3 Treatment foster home

A Treatment Foster Home is an LDSS or LCPA home where the foster parents have received additional training in order to meet the special needs of children who have been identified as having emotional/behavioral, developmental, physical or medical disorders. These foster parents receive the basic maintenance payment based on the child's age and may receive additional payment for added daily supervision and support due to the behavioral, emotional or physical personal care needs of the child as assessed by the VEMAT. The therapeutic needs of a child shall be documented in the child's service record. Many LDSS agencies contract with LCPAs to provide this type of care.

1.6.2.4 Children's residential facilities

Residential placement means placement in a licensed public or privately owned facility, other than a private family home, where 24-hour care is provided to children requiring enhanced supportive services.

Residential facilities also include:

- Group homes.
- Public child care institutions (with a capacity of 25 children or less).
- Psychiatric facilities.

Residential placement offers care and treatment for children as an alternative to the traditional family environment.

1.6.2.5 Independent living arrangements

Independent living arrangements means a placement of a child at least 16 years of age who is in the custody of a CPA and has been placed by the CPA in a living arrangement in which he does not have daily substitute parental supervision. The placements are not eligible for IV-E payment.

1.6.2.6 Interstate placements

The purpose of the Interstate Compact on the Placement of Children (ICPC) is to ensure that children placed out-of-state are placed in approved settings and receive continuing services and supervision necessary to ensure that their placements are appropriate and safe.

In order to use Title IV-E funds for a child placed in a family home or children's facility in another state, the home or facility shall be fully licensed or approved by the state in which it is located and safety requirements with respect to criminal record and CPS checks shall be satisfied. Documentation to verify the safety requirements are met and the placements are fully licenses shall be obtained and placed in the eligibility file.

1.6.2.7 Transferring custody to another LDSS

When custody is transferred to another jurisdiction, the LDSS transferring custody will copy the eligibility file in its entirety and forward the original eligibility file to the new LDSS. Additionally, the eligibility worker will transfer the case in VACIS.

1.6.2.8 Placement documentation

The Eligibility file shall contain documentation that supports and validates all IV-E payments were made to a foster home or children's facility that remained fully approved or licensed during the entire time the child was placed in that home or facility. Every time a child changes placement, the service worker shall report the change **within three (3) days** and provide required documentation for the new placement. All documents shall be current and cover the dates of the child's placement. This will require that the eligibility worker monitor and establish follow-up procedures to obtain the current documentation.

The documentation that shall be maintained in the eligibility file includes:

- Agency approved Family Foster Home.
  - Checklist Form.
  - Foster Home Certificate of Approval 032-03-136-1.
  - Documentation of date CPS/criminal background checks requested and received. The date checks were received shall be prior to child's placement.
  - Emergency approvals will be documented with a copy of Emergency Approval Letter 032-04-0058-00.
- Licensed Child Placing Agency Family Foster Home.
  - LCPA license.
  - Foster Home Certificate of Approval 032-02-0140-02.
  - State form letter or LCPA form substantiating results of CPS/criminal background checks.
- Children's Residential Facilities.

  Children's residential facilities/group homes may be licensed by different state agencies and may have different types of licenses. Only full and conditional licenses are acceptable for Title IV-E payments. Provisional licenses are NOT acceptable and do not meet the licensed placement requirements for IV-E payments. If the license has expired, the children's residential facility shall, at a minimum, provide a letter from the licensing agency that verifies licensure status remains current and for how long. The letters are typically provided to facilities that are licensed by Department of Behavioral Health and Developmental Service (DBHDS).

Licenses status for VDSS approved children's residential facilities may be verified on the VDSS public website.

License status for DBHDS may be verified on the Virginia Department of Behavioral Health and Developmental Services website.

The following situations do not meet placement requirements and are not approved for IV-E payments unless otherwise indicated:

- Provider has a provisional license.
- Child's whereabouts are unknown—runaway (Title IV-E payments end after 14th day).
- Child is hospitalized (Title IV-E payments end after 14th day).
- Child is in an independent living arrangement (living on his or her own).
- Child is on a trial home visit.
- Child is in detention.
- Child is placed in boot camp or forestry camp.
- Child is placed in public group care facilities with more than 25 children.
- Child is placed in a training school.

1.6.3 Financial need requirements

1.6.3.1 Resources

Once a child has been found eligible for Title IV-E, resources will not be a condition of eligibility. As of April 1, 2010 a child who has been determined AFDC eligible under Title IV-E at removal is considered to meet the AFDC need and deprivation requirements throughout the foster care episode regardless of subsequent changes in income, resources and parental deprivation.

1.6.3.2 Income

Once a child has been found eligible for Title IV-E, income will not be a condition of eligibility. As of April 1, 2010 a child who has been determined AFDC eligible under title IV-E at removal is considered to meet the AFDC need and deprivation requirements throughout the foster care episode regardless of subsequent changes in income, resources and parental deprivation.

1.6.3.3 Lump sum payment

A lump sum payment is a nonrecurring payment not earmarked for a specific purpose. Examples of lump sum payments are retroactive Social Security benefits, stock dividends, and life insurance settlements. The receipt of a nonrecurring lump sum payment (excluding retroactive SSI benefits) by or on behalf of a child who has been found Title IV-E eligible, should be processed and used as directed (see *VDSS Finance Guidelines Manual, Local Finance Guidance, Section 3.50*).

1.6.3.4 Receipt of Supplemental Security Income (SSI)

A child's initial Title IV-E screening is not affected by receipt of SSI benefits as the SSI payment is not considered in the Title IV-E eligibility determination. After Title IV-E approval, receipt of SSI should be evaluated by the service worker to determine if continuation is in the best interest of the child. Notification to Social Security will be made by the Service worker.

A child may receive Title IV-E foster care and SSI benefits concurrently as both are intended to meet the maintenance needs of the child. However, the SSI payment will be reduced dollar for dollar by the amount of any IV-E maintenance payment that is made. For this reason, the agency should determine which is more advantageous to meeting the child needs.

In high-cost placements, it is more financially advantageous for the agency to use Title IV-E for the child's maintenance needs. This should zero out and result in a suspension of the SSI payment. While this is more financially advantageous to the agency (no local funds required), it may not be more advantageous for the child when:

- The child is near the point of adoption.
- The child is near the age of emancipation and being prepared for independent living.
- The child is near reunification with a low-income family.

If the child is in a family foster home and the monthly maintenance costs are below the monthly SSI payment, the agency could elect not to claim Title IV-E for payment and continue to receive the SSI payment to meet the child's maintenance needs. If the agency elects this method, the child will become ineligible for IV-E payments until SSI is suspended or ends.

If the child is in a family foster home and the monthly maintenance costs are less than the SSI check, the child could receive concurrent benefits (SSI and Title IV-E). If the agency elects this method, the child will remain Title IV-E eligible.

Example: Monthly maintenance costs are $326. The SSI check is $623. The agency issues a Title IV-E maintenance payment of $326 which reduces the SSI payment to $297.

1.6.3.5 Recurring monthly benefits

Recurring monthly benefits for the child, including SSI, SSA and Veteran Administration are to be placed in a special welfare account in the name of the child to be used for expenses on behalf of the child. Retroactive SSI payments to foster care children covering more than six (6) months of payments shall be paid directly into a separate dedicated account in a financial institution (see the Foster Care chapter, Section 4.10.31). For more information on special welfare account, see the VDSS Finance Guidelines Manual, Section 3.50.

Note: Care should be exercised to assure that the child's SSI benefits are not suspended for more than 12 months, as this would cause the child to lose SSI eligibility and force the child to undergo a full redetermination of SSI eligibility.

1.6.4 Annual Judicial Reviews (AJR)

If the child's entry into foster care was by way of an entrustment agreement, there are no federal annual judicial requirements required to maintain the child's IV-E eligibility status. Children in foster care due to a non-custodial foster care agreement shall be subject to annual judicial reviews once the court approves the agreement.

After IV-E eligibility has been established initially, there shall be yearly judicial determinations that reasonable efforts are being made toward reunification or to finalize a permanent placement of the child. The service worker should provide the eligibility worker with copies of all court orders. If the order is not valid, the eligibility worker shall notify the service worker immediately. Failure to provide all annual judicial review orders could result in an inaccurate IV-E payment decision.

The first judicial determination regarding reasonable efforts to finalize the permanency plan shall be made within 12 months of the "date on which the child is considered to have entered foster care" (see Foster Care chapter, Section 12.2.1.).and at least once every 12 months thereafter while the child is in foster care.

The type of court order that is typically used for this purpose is the Foster Care Review Order or the Permanency Planning Order. The effective date of the court order is the date signed by the judge. The first goal is typically recorded on the Dispositional Order which is required within 75 days of the child entering foster care.

If the goal is not written on the order, the eligibility worker shall request a copy of the first sheet of the current service plan that was submitted to the court for this hearing and attach it to the current court order. The service plan will identify the permanency goal.

Permanency goals are:

- Return to parent or prior caretaker.
- Placement with relatives.
- Adoption.
- Independent Living
- Another Planned Permanent Living Arrangement.
- Permanent Foster Care.

To be considered "valid", the court order shall be signed and dated by the judge and have reasonable efforts language that addresses the current permanency goal (goal written on current order) or any permanency goal that was on any prior court orders within 12 months of the current order. The eligibility worker will then determine if the order meets the required time frame.

Initial Judicial Order – Valid order shall be received within 12 months of the date the child is considered to have entered foster care.

Subsequent Orders – Valid order shall be received within 12 months of the last valid order.

If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is not eligible for IV-E payment at the end of the 12th month from the date the child is considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due, and remains not eligible for IV-E payment until the beginning of the month in which such a judicial determination is made.

If the court finds that the agency has not made reasonable efforts to finalize the permanency plan, the case is not eligible for IV-E payment until the court issues a subsequent order that documented such efforts have been made.

Note: Every time a valid order is received, it will reset the due date for the next AJR.

1.7 Entitlement to maintenance cost

1.7.1 Initial entitlement

Title IV-E is an entitlement program and, as such, no flexibility exists with respect to satisfying the requisite eligibility criteria. If such eligibility criteria are not satisfied within the time frames prescribed in the regulation, the child is ineligible for Title IV-E funds. There are two types of Title IV-E claims that the State may make on behalf of a Title IV-E eligible foster child, administrative and maintenance. Eligibility for IV-E maintenance costs are determined by the local eligibly worker. Administrative costs are processed or reviewed by the Finance Division as a separate process.

1.7.1.1 Maintenance

The eligibility worker is responsible for determining eligibility and recommending payment for cases eligible for maintenance payments. Payments are not to be rounded.

A maintenance claim is made to secure federal matching funds to offset the monthly cost of foster care maintenance payments.

Maintenance payments may not begin until an approved placement has occurred and all initial eligibility requirements that shall be met are satisfied. Initial eligibility requirements are: initial judicial language, AFDC relatedness, and placement requirements. The effective date that the state may claim Title IV-E federal matching funds to offset the monthly maintenance cost of foster care is the first day of placement in the month in which all federal Title IV-E requirements have been met.

The amount of the monthly payment to the foster parent or child caring institution is the total amount of the child's requirements, less any cash income (other than the child's disregarded earnings) directly available to the child or to the foster parents or institution on his behalf.

1.7.1.2 Supplemental clothing allowance

In addition to basic maintenance payments, the supplemental clothing allowance is available for every child, each year they are in foster care.

The clothing allowance should pay for needed clothing at initial placement, placement changes, for back-to-school, as the child grows; and if items are lost or destroyed.

The supplemental clothing allowance shall not exceed the designated rate posted in Section 14.1.3 of the Foster Care Chapter, regardless if the amount was paid by Title IV-E, CSA or a combination of the two. It should be used by May 31st each year. Supplemental clothing allowances apply to all children regardless of funding source. The date the bill is paid determines the fiscal year in which the payment is counted.

Items allowable for purchase include basic clothing and accessories that any reasonable person would determine necessary and appropriate for any child.

All supplemental clothing allocations shall be verified and tracked by the eligibility worker through documentation that the funds were used to purchase clothing for the designated child. This may include a purchase order to the store and receipt or a receipt from store(s) where the foster parents purchased the items. The decision as to the appropriateness and reasonableness of the items purchased is the responsibility of the service worker.

1.7.1.3 Amount of payment

Using information provided by the service worker, the amount of the payment is determined as follows:

- **Adoptive Home**. The amount of maintenance paid for a special needs child placed in an adoptive home is determined and authorized by the service worker. The amount of payment may be lower than, but shall not exceed, the established monthly rate for Title IV-E foster care payments. Adoption assistance payments may be made by the service worker or through another public or nonprofit agency.

- **Foster Home**. The amount of the monthly foster care payment is the basic maintenance rate. Enhanced maintenance payment may also be paid if a VEMAT was administered. (See VEMAT Guidance in Section 14.2.2 of the Foster Care Chapter).

- **Enhanced Maintenance**. Some children require additional daily supervision and support provided by the foster or adoptive parents. These payments are called "Enhanced Maintenance Payments" established through administration of the VEMAT and are paid from Title IV-E funds if the child meets IV-E requirements. Otherwise CSA state pool funds or local only funds shall be used. This enhanced maintenance payment is made in addition to the basic Title IV-E payment. The payment amount page from the VEMAT shall be given to the eligibility worker for inclusion in the Eligibility file and to establish the amount of the payment.

- **Children's Residential Facility (CRF)**. The amount of the monthly foster care payment is the negotiated rate of allowable costs between the provider and the purchaser. The service worker is responsible for providing the eligibility worker with a copy of the Financial Agreement or contract, which documents the currently negotiated rate and the allowable costs to be paid by IV-E funds. Allowable costs include room and board, clothing, personal care, recreation, spending allowance, and the cost of additional daily supervision. The provider shall identify the daily supervision costs as a separate item. The service worker will provide the eligibility worker with a copy of the purchase of service order or the contract with the residential facility. Copies of either of these documents will serve as documentation of allowable costs.

If a daily rate is negotiated, the amount of the monthly payment will be determined by multiplying the number of days in care for the month by the daily rate. The monthly payment will change whenever the number of days in a month changes. If a monthly rate is negotiated, the payment for the month will be the monthly rate negotiated, unless the child was not in the facility for the entire month.

If the room and board rate does not include individual requirements items (clothing, personal care, recreation or allowance) the amount for those items as shown under standard rates of payment in the Foster Care chapter, Section 14.1.3 will be made monthly to the facility on behalf of the child. In instances, where the amounts for individual requirement items are billed "as charged," the agency will reimburse the facility according to "as charged" bills. The service worker shall assess whether clothing and supplies are needed and shall preauthorize all "as charged" bills.

1.7.1.3.1 Placement

The LDSS shall have responsibility for placement and care of the child. Federal Financial participation (FFP) may begin the first day of the month in which a foster home, LCPA, CRF or any allowable placement is in full compliance with the State's licensing standards. Additionally, FFP may begin the first day of the month in which the foster family home or childcare institution satisfies the criminal record and CPS checks. The eligibility worker shall verify that the foster child's placement is fully-approved for IV-E payments through the following documentation:

- Checklist for Initial Provider Approval or Re-Approval;
- Agency-Approved Provider Home Approval Certificate or approval letter; or

- A copy of the LCPA's license and a copy foster family certificate, letter of approval with verification of criminal records and CPS; or
- A copy of the license for the child-care institution.

The child's eligibility record shall show the beginning and end dates for every placement. The foster home certificates will also show the beginning and end dates of the approval period (whether they are LDSS or LCPA homes) and the license approval dates for the LCPA or children's residential facility. All agency-approved provider homes and homes approved through an LCPA are approved for three (3) years. Children's residential facilities approval time span may vary depending on the type of institution and approving State agency.

If a foster family home or child-care institution is licensed for a portion of a month, the State may claim FFP for the entire month when the otherwise eligible child has resided in that home for the entire month. The State shall prorate any claims when the otherwise eligible child has resided in the home or institution for a portion of the month. A new license is required to make any subsequent month's payments. If a foster family home is placed on probation due to lack of compliance with a licensing or approval standard, the State may not claim FFP for foster care maintenance payments during the time that the foster home does not comply with the standards. However, if the home meets all of the licensure or approval standards but is on probation only in the sense that it is a newly licensed home requiring more frequent supervision by the agency, the period of probation would not preclude title IV-E foster care payments being made on behalf of an eligible child in the home.

Example 1: Child entered foster care through a CHINS Order and was placed on April 10, in a home meeting full approval criteria. The initial court order had the required best interest/contrary to welfare language but lacked reasonable efforts language. The reasonable efforts requirement was met on April 25, (within 60 days of initial order). The child was screened and found to meet all AFDC relatedness criteria. Entitlement for Title IV-E maintenance payments may be claimed beginning April 10, since this was the first day of placement in the month in which all requirements were met.

Example 2: Local Agency did an emergency removal of child on March 31, and placed the child in a fully approved foster home. The Emergency Removal Order was signed on April 2, and had all initial judicial language. The child was screened and found to meet all AFDC relatedness criteria. Entitlement to Title IV-E for maintenance may begin April 1, as that is the first day of placement in the month in which all initial Title IV-E requirements were met. The judicial language is a requirement and that was not met until April 2.

Note: A child placed with his parents is not eligible for Title IV-E maintenance payments but may be eligible for TANF during a trial visit if the agency retains custody.

1.7.2 Ongoing entitlement

If a child is initially determined IV-E eligible, the child continues to be Title IV-E eligible while under the care and placement responsibility of the agency if placement and licensing requirements are met and annual judicial hearings are completed when due. If these requirements are not met, the child will not be Title IV-E eligible until the requirements are met.

As of April 1, 2010 a child who has been determined at removal to be AFDC eligible under Title IV-E is considered to meet the AFDC need and deprivation requirements throughout the foster care episode regardless of subsequent changes in income, resources and parental deprivation. No additional eligibility reviews for ongoing entitlement are to be conducted.

A child may lose and regain IV-E eligibility from one month to the next, depending upon changes in placement or judicial review requirements. The temporary ineligibility does not permanently deprive the child of future payments. If the service worker is unable to or does not provide the needed information, to reinstate IV-E eligibility, the eligibility worker shall work with the service worker to secure the required information in order to establish continuing eligibility.

1.8 Assignment of support rights

Federal and State law and regulations outline the requirements for the State's Child Support Enforcement Program. In accordance with Title VI of the Civil Rights Act of 1964, the Virginia Division of Child Support Enforcement (DCSE) prohibits discrimination in all its services on the basis of race, color, national origin, or handicap.

DCSE has the authority to:

- Locate noncustodial parents (NCP).
- Establish paternity.
- Establish and enforce support orders.
- Establish and enforce health care coverage.
- Collect and disburse child support payments and pre-established spousal support.

DCSE is charged with collecting support in accordance with state and federal laws and policies and procedures for foster care children. When the LDSS service worker prepares a petition for custody or foster care placement of a child, the petition includes a request that the court enter a child support order at the preliminary removal hearing. The Summons issued by the court notifies the parents that the court will consider child support at the hearing. DCSE's involvement in the initial hearing or a continuation hearing varies from locality to locality.

The LDSS is responsible for reporting to the DCSE all information necessary to aid in securing support on behalf of a foster care child. The service worker will gather information on each absent parent and record this information on the Absent Parent Deprivation/Paternity Information Form (032-03-0501). A separate form is required for each parent. The service worker will forward the completed form to the eligibility worker for processing and entry into VACIS.

1.8.1 Referral to Division of Child Support Enforcement (DCSE)

1.8.1.1 Initial application

Payment of Title IV-E foster care creates a debt to the State of Virginia that is owed by the absent parent/s. The rights to support monies received on behalf of the foster care child are automatically assigned to the State as a refund toward Title IV-E payments paid on behalf of such children.

All Title IV-E cases except those in which deprivation is based on the death of both parents shall be referred to the DCSE unless Good Cause is claimed (see Section 1.8.1.2)

Currently, for eligibility purposes, Title IV-E foster care cases are recorded on the VACIS automated system. The VACIS system has edits in place that require the eligibility worker to transfer the information recorded on the Absent Parent Deprivation/Paternity Information Form to the electronic version for the form (also known as the MAPPER 501) before the case can be approved in VACIS. VACIS electronically transmits to DCSE:

- Case openings.
- Case closings.
- Findings of good cause.

1.8.1.2 Initial Good Cause claims

Good Cause is an exception to the requirement that LDSS cooperate with DCSE to pursue child support on behalf of a foster care child. In cases where the foster care plan has the goal of returning the child to the parent(s) and

collection of support will interfere with achieving that goal, the service worker may claim Good Cause for the parent or parents to whom the child is to return. Claiming Good Cause will result in the case not being pursued by DCSE for collection of support.

Even if Good Cause is claimed, the service worker is still required to complete the Absent Parent Deprivation/Paternity Information Form (032-03-0501). They will also complete the Good Cause Determination Form (032-03-0035) on each absent parent and forward to the eligibility worker.

When Good Cause is found to exist at the time of application, the MAPPER 501 is updated with the good cause status code by the eligibility worker. The MAPPER 501 information on these cases does not build an APECS (Automated Program to Enforce Child Support) case. The eligibility worker will forward a hard copy of the Good Cause Determination Form to the appropriate DCSE office.

1.8.1.3 Ongoing Good Cause evaluation and status

The Good Cause finding is to be evaluated whenever a change is reported by the service worker who will advise the eligibility worker whether the Good Cause finding continues to be appropriate. If a change in the foster care plan has occurred, and the plan is no longer to return the child to the parent(s), the service worker is to advise eligibility staff, in writing, that Good Cause no longer exists for that parent.

The eligibility worker will document in the case record whenever there is a change in the Good Cause status and will notify DCSE electronically by changing the Good Cause status code on the Absent Parent Deprivation/Paternity Information Form (032-03-0501) in MAPPER. The eligibility worker through VACIS will go into the APECS screen to enter the changes info on MAPPER 501.

If Good Cause no longer exists, APECS automatically updates the information on the APECS Referral Data screen and notifies DCSE staff that the Good Cause status has changed. DCSE takes action to establish and enforce child support prospectively from the date that Good Cause no longer exists.

If a determination changes from a Non-Good Cause finding to a Good Cause finding on an active Title IV-E case, the service worker will complete the Good Cause Determination form (032-03-0035) and forward to the eligibility worker. The eligibility worker will notify DCSE electronically by changing the good cause status code in MAPPER. DCSE will close the APECS case.

1.8.2 DCSE requirements for children ineligible for Title IV-E payment

When a Title IV-E eligible case is no longer eligible for a IV-E payment due to a change in status as listed in Section 1.6, DCSE shall be notified manually. The eligibility worker will complete the Notification to DCSE of Non-Maintenance IV-E Case Form (032-03-0356) and forward a hard copy to the appropriate DCSE office.

Additionally, if the child subsequently changes back to Title IV-E eligible, DCSE shall be notified by using the same process as discussed above.

1.8.3 Changes that affect DCSE

VACIS electronically transmits case closures to DCSE. Reasons for case closures are listed in Section 1.10.1. Changes in the status of a foster care case or the absent parent's situation are to be reported to DCSE. Some changes will be electronically submitted when changes are made in VACIS or updates are made on the Absent Parent Deprivation/Paternity Information Form (032-03-0501) in MAPPER but some changes may require a manual notification to DCSE. The worker should use appropriate forms and procedures approved by DCSE. Changes and actions for notification may include the following:

- The child leaves foster care.
- Good Cause no longer exists because the service plan goal for the child changes from the goal of return to parents to another goal. Form (032-03-0501) is updated.
- Parental rights are terminated.
- The parent(s) have signed a permanent entrustment agreement.
- The child is emancipated or becomes age 18. VACIS case is closed.
- The whereabouts of the child are unknown.
- Death of the child.
- The child is returned to a parent. VACIS case is closed.

1.8.4 Support collections

If support is collected for a foster care child, The Division of Finance, Child Support State Disbursement Unit, will generate a monthly report entitled “State Foster Care Reimbursement”. This report is sent to the LDSS and will list support collected on behalf of foster care children in the agency’s custody. The local agency should ensure that the eligibility worker receives a copy of this report.

Child support for the child of a minor foster care child is addressed in Section 1.11.2 with guidance regarding DCSE requirements for child of a foster care child.

1.9 Medical Care – Medicaid

The Medical Assistance program (Medicaid) was established under Title XIX of the Federal Social Security Act to enable states to provide medical and health-related services for certain individuals and families with low incomes. The Foster Care and Adoption Assistance Amendments (P.L. 96-272) passed in 1980 created a separate title, IV-E, in the Social Security Act to specifically fund foster care and adoption assistance services to children who are Title IV-E eligible. The 1980 law based eligibility on whether or not a child came from a family receiving AFDC or if that child came from a family eligible for AFDC.

The program is financed jointly by the federal and state governments. VDSS works in partnership with the Department of Medical Assistance Services (DMAS), the state agency responsible for the administration of the Medicaid program in Virginia.

1.9.1 Medicaid entitlement application

1.9.1.1 Method of application

The service worker shall complete and forward the Title IV-E Foster Care and Medicaid Application Form (032-03-0636) to the eligibility worker for all foster care children who entered care through a court ordered removal or entrustment. When received, the eligibility worker should complete a Medicaid inquiry and notify the service worker of the child's existing coverage. Title IV-E Medicaid eligibility determination is to be completed within ten days of the child's entry into foster care**.**

For children who enter foster care through Non-custodial Agreements or Parental Agreements, the parent or legal guardian shall complete a separate Medicaid application. The application is submitted to the service worker who submits the form to the eligibility worker. Acceptable application forms are listed in the Medicaid manual. Although a separate Medicaid application is required, the eligibility determination process is the same.

1.9.1.2 Timely application

Medicaid Entitlement begins the first day of the month of commitment or entrustment **only if** a Medicaid application is filed within four (4) months of the commitment or entrustment (judicial order or VPA).

1.9.1.3 Late application

If the Medicaid application is filed more than four (4) months after judicial order or VPA, Medicaid entitlement begins the first day of the month the application is received if retroactive coverage is NOT requested. If retroactive coverage is requested, Medicaid entitlement can begin up to three (3) months prior to the month in which the Medicaid application is filed with the Medicaid eligibility worker.

1.9.1.4 Retroactive entitlement

If the Medicaid application is filed within four (4) months of a judicial order or VPA, retroactive eligibility exists only if the child met a covered group and all other Medicaid eligibility requirements in the retroactive period.

If the Medicaid application is filed more than four (4) months after judicial order or VPA, retroactive entitlement as a foster care child exists in the three (3) months prior to Medicaid application. Entitlement cannot go back more than three (3) months prior to the Medicaid application month, the month in which the Medicaid application is filed with the Medicaid eligibility worker.

1.9.2 Medicaid eligibility

Medicaid eligibility is based on the child meeting criteria in at least one covered group, other non-financial requirements, income requirements, and in some cases resource requirements. Children may meet the definitions for more than one Medicaid covered group.

1.9.2.1 Title IV-E eligible AND receiving a IV-E maintenance payment

- Child meets the IV-E foster care covered group.
- Social Security number or proof of SSN application required.
- Enroll child in Medicaid.

1.9.2.2 Title IV-E eligible child is an SSI recipient (receives SSI payment)

- Child meets the definitions of the SSI covered group.
- Medicaid eligibility in the SSI covered group shall be determined.
    - Shall be U.S. citizen or qualified immigrant.
    - Shall be Virginia resident.

- SSN shall be provided.
- Resource requirements shall be met (if SSI recipient owns real property).
- If child not eligible in SSI covered group, child could be eligible for Medicaid in IV-E Foster Care covered group if he or she receives a IV-E foster care maintenance payment instead of SSI.

1.9.2.3 Changes that affect Medicaid

Medicaid eligibility is based on the current circumstances of the child. If a Title IV-E eligible child **is not** receiving a IV-E maintenance payment, the child does **not** meet the Title IV-E foster care covered group. If the child no longer meets the IV-E foster care covered group then a re-evaluation of the child's Medicaid shall be conducted to determine if the child meets another Medicaid covered group. The eligibility worker shall conduct the evaluation in accordance with the Medicaid Eligibility Manual guidance to determine the child's ongoing eligibility for Medicaid.

A Medicaid recipient's eligibility shall be partially reviewed when the agency becomes aware of any change in the child's circumstances that might affect continued Medicaid eligibility such as:

Changes which require a re-evaluation for Medicaid include:

- Child has run away.
- Child is in an unapproved placement.
- Child is on a trial home visit (Medicaid eligibility as IV-E foster care can continue for up to 6 months of the trial home visit. If child remains in the home after 6 months, the child's eligibility shall be determined in another covered group and the parent(s)' & siblings' income will be counted or deemed available).
- Noncompliance with annual judicial review.
- Child is in a placement that does not meet IV-E requirements.
- Child has excess income or resources.
- Child has been placed in a home or facility in another state.
- Child is age 19 and no longer Title IV-E eligible but remains in foster care placement.

If child's Title IV-E maintenance payment resumes, the child will again meet the Title IV-E covered group.

1.9.3 Annual Medicaid renewals

Annual Medicaid reviews shall be completed at least once every 12 months. The eligibility worker shall verify that a child is receiving IV-E maintenance payments by completing a Foster Care Case Action form.

The Medicaid eligibility worker will notify the service worker when the renewal is due. The service worker will complete the appropriate section(s) of the Foster Care Case Action Form and forward it to the Medicaid eligibility worker for processing.

The Medicaid eligibility worker will complete the renewal for Medicaid using the Foster Care Case Action form and notify Medicaid if there are any changes that would affect the status as an IV-E covered group client.

1.9.4 Medicaid cancellation

Medicaid entitlement ends when the child fails to meet all of the Medicaid eligibility requirements. Medicaid coverage is canceled on the last day of the month in which the agency determines that the child no longer meets the Medicaid eligibility requirements.

1.9.5 Medicaid Notice of Action

A Notice of Action is required for:

- Making a disposition of initial application
- Changes in Title IV-E eligibility status
- Determination that the child is no longer eligible for Medicaid, coverage canceled.

If the child entered foster care by way of court order or entrustment, the notice of action is sent to the appropriate service worker in the LDSS that has custody of the child.

If the child entered foster care by way of a non-custodial agreement, the notice of action is sent to the parents or legal guardian. If the non-custodial foster care agreement should end because the agency is awarded legal custody, future notice of action would be sent the agency service worker.

1.10 Closure of Title IV-E case

Once initial eligibility is established, the child continues to be eligible while under the care and responsibility of the agency. If the child leaves foster care, the case shall be closed. The service worker must notify the eligibility worker immediately in writing that the child is no longer in the care of the LDSS and the date of discharge. The following section identifies some of the reasons for case closure.

1.10.1 When to close a Title IV-E case

Close a Title IV-E case when:

- The child no longer meets the age requirement.
- The child entered the LDSS care and responsibility as the result of a VPA and the LDSS has not obtained a custody order with a judicial determination before the 180th day of custody to the effect that continued voluntary placement is in the child's best interest.
- LDSS custody has been terminated; or
- The child is on a Trial Home Visit (THV) for more than six (6) consecutive months or time exceeds the time authorized by the court.
- The child is on runaway or absent without leave (AWOL) status for more than six (6) consecutive months.
- A youth committed to DJJ is no longer in the custody of *LDSS* and *shall* be discharged from foster care. The date of the court order will be the discharge date as documented in the Child Welfare Information System.

In situations in which the child's eligibility for Title IV-E ends, the child may continue to receive foster care services as a non-IV-E child and the eligibility worker will be responsible for managing the Medicaid for children in these situations.

1.11 Minor child of foster care child

The maintenance payment for a minor child of a foster child who resides with and is in the foster child's custody shall be added to the foster care payment made for the minor child's parent and paid to the foster care provider.

The minor child of a foster child living with his or her parent in a foster home or residential placement is not eligible for TANF. The foster care provider is responsible for providing room and board and ensuring that the payment is used to meet the child's needs.

This provision applies only when legal custody/care of the minor parent's child remains with the minor parent. If the minor child of a foster care child is placed in the custody of the LDSS, the minor child is removed from the parent and a new determination is required for the child.

No eligibility determination or application form is required for the minor child. The service worker will notify the eligibility worker in writing when a child is born to a foster care child or otherwise commences living with the parent in foster care.

The service worker should report the addition of the minor child **within ten (10) days** of child's birth or commencing to live with the foster care child. Within 45 days the child shall to be added to the parent's Title IV-E case in VACIS using information provided by the social worker.

Title IV-E eligibility is to be determined separately for the minor child if they also enter foster care, even if the minor child remains in the same foster care placement.

1.11.1 Referral of the absent parent to DCSE

The LDSS is responsible for providing information to DCSE concerning an absent parent of the minor child of a foster child.

If the foster care child refuses to provide information on the baby's absent parent, no sanction is applied for failure of the parent to cooperate and it will have no impact on the baby's eligibility for a maintenance payment or the parent's maintenance payment.

The child of a foster care child shall be reported to DCSE for their financial accounting and reporting.

1.11.2 Amount of payment

The maintenance cost of the infant child of a foster child is added to the foster care maintenance payment made on behalf of the eligible foster child parent. The payment is prorated based on the day of the month the foster care child's child began living in the foster home or residential facility with the minor parent.

Example: Foster care child has a baby on 4-2-10 and baby begins living in the foster home on 4-3-10 (day released from hospital). 4-3-10 is the first day of placement for the foster care child's baby so the payment will be prorated for April beginning 4-3-10.

For the child residing with their minor parent foster child in a foster family home, the amount of the monthly maintenance payment for the baby/child will be the state's basic maintenance rate for the age of child. The minor child is also eligible for the supplemental clothing allowance according to their age. See Section 14.3 of the Foster Care Chapter.

For the child residing with their minor foster child parent in a children's residential facility, the rate negotiated with the institution is to be allowed as well as the individual requirement allowances (clothing, personal care, recreation or allowance), if not covered in the negotiated rate.

In determining the amount of the child of the minor parent foster child monthly payment, income and resource policies and procedures applicable to the parent also apply to the child:

- Resource limit is $10,000.
- Income of foster care child's child cannot exceed 185% of the monthly maintenance payment for the foster care child's minor child.

Note: Income and resources of the parent and child are to be evaluated separately.

1.11.3 Medicaid enrollment

The child born to a foster child who receives a Title IV-E payment is deemed to be a recipient of Title IV-E. Therefore, no separate Medicaid determination is done.

1.11.4 Completion of foster care maintenance evaluation

A Title IV-E foster care evaluation form is to be completed at the time the child is added to the parent's case. Annual Medicaid evaluation for continued Title IV-E eligibility is completed at the same time the parent is evaluated, indicating that this is a child of the foster child, and identifying any income and/or resources of the child.

1.11.5 When not to include the minor child in their parent's (foster child's) case

- If the LDSS obtains custody for both the minor parent and child, the agency shall open separate cases and establish eligibility determination based on their individual comportment with IV-E requirements.
- Minor Parent In Independent Living - The requirement to include a child's maintenance needs in his/her parent's foster care payment does not apply when the parent is in an independent living arrangement. In such situations, the baby's needs may be met through the Temporary Assistance for Needy Families program, if otherwise eligible.