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COMAR	07.02.11.03
Title IV-E State Plan Implications?	Yes



PURPOSE:

The purpose of this policy directive is to provide guidelines to the local departments of social Services (LDSS) on case planning for all children in out-of-home placement with a concentration on concurrent permanency planning. Maryland currently utilizes concurrent permanency planning, however most jurisdictions do not routinely identify both plans in case planning and court reports. This policy will assist in establishing appropriate concurrent plans and provide information to LDSS staff concerning documenting reasonable efforts to achieve both plans at the same time. The local departments of social services (LDSS) must engage in concurrent permanency planning with all children with a permanency plan of reunification with the parent or legal guardian, placement with a relative for adoption or custody and guardianship or adoption by a non relative (prior to termination of parental rights).

BACKGROUND:

The origin of the term "concurrent planning" is attributed to the Washington State Department of Social Services and its work with Linda Katz at Lutheran Social Services of Washington and Idaho in the early 1980s. Practitioners realized that in cases where the prognosis for reunification was poor, it made sense to place children as early as possible in homes where they could remain.

The National Resource Center for Foster Care and Permanency Planning defines concurrent planning as: *"a process of working towards reunification while at the same time establishing an alternative or contingency back-up plan concurrent rather than sequential planning efforts to more quickly move children from the uncertainty of foster care to the security of a safe and stable permanent family."*

The Adoption and Safe Families Act of 1997 supports the concept of concurrency on several levels, but stops short of mandating concurrent planning in all situations. The law does not require a state to engage in concurrent planning during the period in which the agency is working to reunite a family. However it does specify that reasonable efforts to place a child for adoption or with a legal guardian *may* be made concurrently with reasonable efforts to reunite the family (42 U.S.C. 671 (a) (15) (F): 1997).

ASFA encourages the use of concurrent planning with good supervision, training and applied on a case-by-case basis. Further, for children who have been in foster care for 15 of the most recent 22 months, ASFA requires the state to file a petition to terminate the parental rights when certain exceptions do not exist. A state must concurrently identify, recruit, process, and approve a qualified family for an adoption when it files or joins a petition to terminate parental rights. States are required to make reasonable efforts to achieve permanency for children.

ACTION:

Purpose of Concurrent Permanency Planning

In Maryland, concurrent permanency planning is defined as "the process of taking concrete steps to implement both primary and secondary permanency plans" (COMAR 07.02.11.03). Concurrent permanency goal planning is the simultaneous pursuit of two permanency goals in order to achieve permanence for a child as safely and expeditiously as possible. The plans should include specific efforts that can be made at the same time towards the achievement of permanency. Concurrent planning requires not only the identification of an alternative plan, but also the implementation of active efforts toward both plans simultaneously, with the full knowledge of all case participants. Compared to more traditional sequential planning for permanency, in which one permanency plan is ruled out before an alternative is developed, concurrent planning may provide earlier permanency for the child.

Steps for Concurrent Permanency Planning

A permanency plan shall be established within 60 days of the date of removal for any child that enters out-of-home placement, as part of the initial case reconsideration. The permanency plan hearing shall be held within 11 months from the date of removal. The following are types of permanency plans:

- Reunification with the parent or legal guardian;
- Placement with a relative for adoption or custody and guardianship;
- Adoption by a non relative;
- Guardianship by a non relative; and
- Another Planned Permanent Living Arrangement (APPLA)

Four Main Goals of Concurrent Planning:

- Promote the safety, permanency, and well-being of children in out of home care;
- Achieve timely permanency for children in out of home care;
- Reduce the number of placements in the foster care system for children; and
- Continue significant relationships with family, friends, and community resources for children in out-of-home care.

Benefits of Concurrent Planning:

- Full Disclosure and clarity between the LDSS, resource providers, parents, child, relatives regarding the plan for the child's permanency;
- Early permanency through reunification or another permanency option that was identified and pursued;
- Provision of meaningful visits between the parents and the child;
- Involvement of family in identifying kinship options;
- Reduction in the number of placement settings the child experiences;
- Reduction of time the child spends in out-of-home placement;
- Development of a trusting relationship between caseworkers, parents, relatives and the courts because planning for the child becomes more strength-based and less punitive and adversarial resulting in enhanced parent motivation;
- Increased connections for the child through voluntary visitation agreements in adoption or guardianship arrangements; and
- Development of a network of resource parents and relatives who are willing to work with the biological families while serving as a permanency resource for children.

Reunification with the Parent or Legal Guardian

A plan of reunification shall be pursued with a reasonable expectation that the plan will be achieved within 15 months from the date of entry into out-of-home placement excluding trial home visits and runaway episodes. In Maryland, the 15-month count starts from the date the child is removed from the parent/legal guardian or the date the voluntary placement agreement is signed. For the purpose of this policy directive the term parent will include any person that has legal guardianship of a child. Parents must be informed at the time of removal, including voluntary placement, about time lines for reunification. After a child has been in out-of-home placement for 15 months out of the prior 22 months, the local department must file a Petition to Terminate Parental Rights and pursue adoption. If a child is returned home under a trial home visit or Order of Protective Supervision (OPS) and the reunification cannot be maintained, the 15 month period continues once the child is placed in another approved placement, the 15 month period does not restart.

The caseworker shall engage the parent(s) in reunification services immediately upon the child entering out-of-home placement. Caseworkers follow basic elements of standard reunification practice including:

- Meeting with parent or legal guardian to establish a service agreement that outlines the steps they need to take for the child to return home;
- Providing or referring parents or legal guardian to services to meet goals of the service plan; Establish a visitation plan between parents or legal guardian and children;
- Monitoring and evaluating parents' or legal guardians' progress in remedying the problems that brought the child into care; and
- Based on parents' or legal guardian's progress, make recommendations to the court to either return the child home or pursue the concurrent plan.

In most cases, the team, including the parents or legal guardian, resource family and the caseworker, has been working together for the first 60 days from removal to establish the permanency plans. A visitation plan shall be established with the parents or legal guardian within 3 days of the child entering out-of-home placement. A service agreement shall be established by the caseworker and parent(s) or legal guardian as quickly as possible but prior to the 60 day initial case reconsideration. **The designing of the service agreement shall be a collaborative effort by the caseworker and parent(s) or legal guardian.**

Additional information concerning Parent/Child Visitation can be found in policy directive SSA# 12-33.

The service agreement shall assign the parents or legal guardian and the local department tasks to assist in reuniting the child and parent or legal guardian. The tasks shall be specifically related to the reasons the child entered out-of-home placement. The caseworker shall **not** provide the parent with a generic service agreement that is not centered on the specific reasons the child was removed from the parent. If other areas of concern present themselves during the reunification process the caseworker shall incorporate those concerns into tasks in the service agreement. The service agreement shall define clear timeframes on when each task shall be accomplished. It is necessary that the parents or legal guardian agree with the tasks in the service agreement and sign the agreement. **A working service agreement signed by all necessary parties is a reasonable effort to achieve the permanency plan of reunification.**

The team shall identify the supports needed to ensure successful reunification. The support can include agency services; help from extended family, community services and informal support. The parents and resource provider's relationship is encouraged to continue after reunification. The parents or resource provider may have concerns about the reunification. It is important to recognize the concern and work with the team to create a post-placement plan that addresses the concern. Communication is essential between all members of the team

to ensure a smooth transition for the child to return home.

Reunification efforts require total commitment and should not be approached with the expectation of failure. A caseworker develops a plan of reunification for the purpose of inciting client change, while at the same time the caseworker develops a concurrent permanency plan in case client change does not occur. This makes the parent or legal guardian involved in the process of identifying a concurrent permanency plan and assisting in identifying the relative. With the parents' involvement, the concept of concurrent planning is more acceptable. The caseworker shall work both permanency plans at the same time.

Example

When a child enters out-of-home placement the primary permanency plan is reunification with the parent or legal guardian. The concurrent permanency plan could be placement with a relative for adoption or custody and guardianship. As the caseworker is providing intense reunification services to the parent(s) or legal guardian, the caseworker shall also begin locating a relative able and willing to care for the child. The parent(s) shall be engaged and encouraged to assist with identifying and locating a relative placement. The caseworker shall expeditiously explore maternal and paternal relatives. Once a relative is located, the child shall be placed with the relative after the necessary approval process has occurred and the intensive reunification efforts shall continue with the parent(s) while the child is placed with the relative. During the period of time the child is placed with the relative while reunification services are being offered to the parent, the caseworker shall have discussions with the relative about permanency for this child if the plan of reunification is not achieved by the parent or legal guardian.

If a parent or legal guardian refuses to cooperate with the caseworker on designing a service agreement or signing a service agreement, the supervisor shall speak with the parent or legal guardian to resolve any issues. After the supervisor's intervention if the parent or legal guardian still refuses to enter into the service agreement the caseworker shall notify court and counsel of the parent's or legal guardian's unwillingness to engage in a service agreement. The caseworker shall focus on the strengths of the family when designing the service agreement, which is a means of encouraging parent or legal guardian involvement, ownership, and compliance. The caseworker will formally determine the permanency plans and shall be straightforward with both the parents and resource provider about the status of the concurrent permanency plans for the child's permanency.

Trial Home Visits

The trial home visit is a key strategy and last step in the reunification process. A trial home visit occurs when a child in out-of-home placement is placed in the care of the parent(s)/guardian(s) for a period of time while the LDSS maintains custody of the child to provide additional services to the family and monitor the safety of the child. The trial home visit is the last step in the reunification process. A trial home visit provides a set of post-placement services for a child in out-of-home placement. The child is no longer residing in a paid out-of-home placement or kinship placement but is still under court ordered custody to the LDSS. The out-of-home services case is not closed since the LDSS still maintains custody of the child and the removal episode is not ended. A trial home visit is appropriate when:

- Parent(s) or legal guardian has successfully completed the tasks in their service agreement and made behavioral changes necessary to provide safe and stable care to their child(ren);
- Progressive visitation has occurred between child and parent or legal guardian; Caseworker determines that the child is safe in the care of the parent(Safe-C completed); and

- Caseworker determines no risk in the home (Risk Assessment completed).

A trial home visit shall not last longer than 3 months (90 days), but can be extended for an additional 3 months (90 days) with the LDSS director's written approval. During the period of the trial home visit the caseworker and parent(s) or legal guardian shall continue to work on transitioning the child from an out-of-home placement setting to the permanent family home. Services are made available by the LDSS to ensure that the living arrangement is safe and the needs of the child and family are being met in order to help the family be successful. Intense caseworker visitation is crucial when a child is returned to the care of a parent and/or legal guardian. During the period of trial home visit, the caseworker shall visit the child in the placement **at least once every two weeks**. These visits shall occur for the entire period of time the child is on the trial home visit. At least one of the parents/legal guardians shall be present during these visits.

Additional information concerning Caseworker Visitation during trial home visit can be found in policy directive SSA# 12-7. When a child has been returned to the parent or legal guardian under an Order of Protective Supervision (OPS), this is not a trial home visit because the LDSS no longer has custody of the child and the child is not in out-of-home placement.

Waiver of Reunification

Reunification is the desired outcome for the first 15 months; if the child however meets the criteria for a waiver of reunification the caseworker may request this waiver through the court prior to the Child in Need of Assistance (CINA) hearing. A waiver of reunification can be requested for one or both parents/guardians of the child. The local department shall give serious consideration to petition the court for a waiver of reunification if any of the following circumstances exists:

the parent has subjected the child to torture, chronic or sexual abuse, or chronic and life- threatening neglect;

- The parent has been convicted of a crime of violence, as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, against:
 - The child,
 - The other parent of the child, or
 - Another child of the parent.
- The local department believes the child to be abandoned;
- The parent has involuntarily lost parental rights of a sibling of the child;
- The child was born addicted to or dependent on cocaine, heroin, methamphetamine, or a derivative of them, or with a significant presence of cocaine, heroin, methamphetamine, or a derivative of them in the child's blood, as evidenced by toxicology or other appropriate tests, and the local department has offered the mother admission into a drug treatment program within 90 days after the birth of the child, and the mother:
 - Does not accept admission to the program or its equivalent within 45 days of the offer, or
 - Fails to participate fully in the program or its equivalent.

Upon removal of a child and entry into out-of-home services the caseworker shall check for each parent or legal guardian in the Maryland Sex Offenders Registry and National Sex Offenders Public Website. The Maryland Registry may be accessed at:

<http://www.dpscs.state.md.us/sorSearch> and the National Sex Offender Public Website at:

<http://www.nsopw.gov>. The Child Abuse Prevention and Treatment Act (CAPTA) was originally enacted in 1974. The Act has been amended several times, and was most recently amended and reauthorized December 2010 (PL 111-320). The amended Act allowed each State to determine whether they offer a parent on the sex offenders' registry reunification services. If the victim of the sexual offense in question is the child in out-of-home placement, a sibling of that child, or the other parent of that child, a Waiver of Reunification Services shall be requested.

Placement with a Relative for Adoption or Custody and Guardianship

Placement with a relative is a preference in concurrent permanency planning with the concurrent permanency plan being reunification. A relative provider is defined as an individual who is related by blood or marriage within five degrees of consanguinity. Once a child is placed with a relative, according to ASFA regulations, the state may choose whether to exempt the child from ASFA timelines. If a child enters out-of-home placement and a relative is identified, the LDSS shall make every attempt to place the child with the relative expeditiously. A child shall be placed with a relative as soon as the relative meets the relative placement requirements (COMAR 07.02.25.10). Even after a child is placed with a relative, the LDSS continues to provide reunification services in pursuit of the concurrent plan of reunification. The caseworker shall focus on assisting in reunification while the concurrent plan of relative placement has been achieved. The caseworker shall continue to provide services to the relative and child to maintain stability of the placement. The caseworker must explore restrictive foster care with the relative.

Maryland has implemented the stringent position to require legal permanency for a child with a relative, in an effort to find permanency for children and move them out of the out-of-home placement. If after 15 months of reunification services or if the parent(s) stop engaging with reunification services prior to 15 months, the LDSS shall move toward finalizing the plan of placement with a relative for adoption or custody and guardianship. The caseworker shall have a continuous conversation with the relative provider regarding permanency for the child, including the relative's interest in adopting or accepting custody and guardianship of the child. Without legal custody being awarded to the relative, the child remains in state custody. If the relative provider decides to pursue the plan of adoption with the child, details concerning adoption by a relative can be found in the next section of the policy directive. Maryland has the Guardianship Assistance Program that provides financial support to relatives that take legal custody and guardianship of the child therefore removing financial barriers.

If legal custody and guardianship to a relative is the permanency plan, the team shall help work out the support needed to ensure the success of this outcome. These supports can include agency services, help from extended family, community services, and informal support. The parent and relative relationship can continue with a formal contract agreement, or an informal agreement, since a goal of concurrent permanency planning is to maintain the child's important relationships. Unless the parents present a safety risk for the child, the plan of legal custody and guardianship can include contact.

Additional information concerning the Guardianship Assistance Program can be found in policy directive SSA# 11-21.

Adoption by a Relative/Non Relative

Adoption is the preferred placement when a child cannot be returned to his or her parents because it gives the child a new permanent legal family with the same legal standing and protection as a family created by birth. Adoption offers the most legally secure permanency.

Adoption by a relative is preferred over adoption by a non relative; a growing number of children are adopted by their relatives, including grandparents, aunts, uncles, cousins, and older siblings.

Concurrent permanency planning shall be used when a permanency plan is adoption prior to the LDSS being awarded guardianship with the right to consent to adoption or long term care short of adoption. The LDSS is awarded the aforementioned guardianship when the court terminates parental rights (TPR) making the child legally free for adoption. If the parents appeal the TPR decision, the LDSS shall continue the concurrent permanency plan until the appeals court has decided the case. The LDSS shall use the concurrent permanency plans established prior to the guardianship hearing. When the LDSS has made reasonable but unsuccessful efforts to reunify the child, or when the court has ruled that reasonable efforts to reunify are not required (waiver of reunification), there is a strong preference for adoption as the child's permanency plan. When the LDSS requests that the permanency plan (primary or concurrent) change to adoption, the caseworker should be in the process of expeditiously moving to free the child for adoption, locating an adoptive resource, and preparing the child and family for adoption finalization. When part of the concurrent permanency plan is adoption the caseworker shall document the reasonable efforts to achieve the plan.

When the permanency plan (primary or concurrent) is adoption, the caseworker needs to be able to present to the court an approximate time by which the LDSS believes the adoption can be finalized. In addition, the caseworker will need to tell the court what reasonable efforts the LDSS is making to finalize the plan. Reasonable efforts include filing the petition to terminate parental rights, discussing with the birth parent the option of a voluntary surrender, locating a prospective adoptive placement, providing counseling (including peer counseling) to a teen who may be reluctant to proceed with adoption, providing counseling to a foster parent who may be uncertain about the benefits of adoption, submitting the adoption assistance packet, submitting the adoption packet to court, and making arrangements for post-adoption services.

Permanency planning under ASFA requires that a petition to Terminate Parental Rights (TPR) be filed when a child has been in foster care 15 or more of the most recent 22 months. If the LDSS chooses not to file a TPR petition, the LDSS must document the "compelling reason" why they are not filing a petition. ASFA identifies three compelling reasons:

- The child is being cared for by a relative who chooses not to adopt, but is willing, able, and suitable to care for the child until age 18;
- The court made a written finding that TPR would not be in the child's best interests; and
- The department has not provided the child's parent, when reasonable efforts to return the child are required, services necessary for the safe return of the child within the time frame.

A TPR petition can be filed earlier if legal grounds for termination of parental rights exist or if the parents are willing to consent to the TPR. Once the court has changed the permanency plan to adoption the LDSS must file a TPR petition within 30 days. If the court changes the plan to adoption against the recommendation of the LDSS, the LDSS has 60 days to file the TRP petition.

In certain situations, the complete severing of the parent-child relationship may not be in the child's best interests. When adoption is the permanency plan, staff should carefully consider whether an open adoption might serve the child's best interests. This may be effectuated through a voluntary surrender with conditions or through a private agreement between pre-adoptive and birth parents and may address issues such as who will adopt the child, whether there will be continued communication between child and birth parent through pictures, letters, gifts, etc., and whether there will be post-adoption visits and other contacts. The parents can directly consent to an adoption, empowering the parents to select the adoptive family and eliminating the need for a painful trial to Termination of Parental Rights.

After the court has granted guardianship to the LDSS, the child is considered legally free for adoption. The LDSS no longer has to maintain a concurrent permanency plan for the child. If the child is residing in a pre-adopt placement and has been in the placement for 6 consecutive months the LDSS shall promptly move the case toward adoption finalization. Prior to this stage, the caseworker has already been establishing reasonable efforts to achieve the plan of adoption. If the child is not in a pre-adoptive placement that caseworker shall continue to explore pre-adoptive resources for the youth. If the child is legally free for adoption and has no identified adoptive resource, **the caseworker shall place the child (with a picture) on the "Adoptuskids" website.** The caseworker shall use every available resource to locate an adoptive placement including child specific recruitment.

Adoption can occur for a youth over the age of 18 years; however those children do not qualify for adoption assistance.

APPLA

The Chafee Foster Care Independence Act has helped identify the need for expanding concurrent permanency planning beyond very young children. APPLA shall not be used as a permanency plan for any youth under the age of 13. **APPLA shall not be used as the secondary plan as part of the concurrent permanency plan.** When the permanency plan for any child is APPLA a concurrent permanency plan is not required. Permanency planning efforts with a teen may include aggressively recruiting adoptive parents while simultaneously helping the youth develop positive relationships with relatives and other adults. The goal is for the youth to have emotional support in place if an adoptive home cannot be identified by the time the youth turns 18. APPLA is the least preferred choice among the permanency plan hierarchy and should be used only when all other plans have been completely exhausted. APPLA should not be used if any other plan can be explored or if the local department has not attempted to engage all parents and relatives and explored adoption. The plan of APPLA shall be reviewed by the caseworker and supervisor at the time of the completion of the court report or case reconsideration. The supervisor shall ensure that the 12 APPLA questions are answered accurately and that the local department is ensuring the individual needs of the youth including educational plan, emotional stability, physical placement, and socialization needs are being met. At any time, if a more desirable permanency plan can be adopted, the local department shall request a change in the permanency plan.

Additional information concerning APPLA can be found in policy directive SSA# 12-32.

Concurrent Permanency Planning related to Court Hearings

When preparing a court report to submit to court and counsel, the caseworker shall identify concurrent permanency plans. Reasonable efforts to achieve both permanency plans must be clearly set out in the court report. To be effective, concurrent planning requires not only the identification of two plans, but also the implementation of active efforts toward both plans simultaneously, with the full knowledge of all case participants. Compared to more traditional sequential planning for permanency, in which one permanency plan is ruled out before an alternative is developed, concurrent planning may provide earlier permanency for the child. The Adoption and Safe Families Act requires that reasonable efforts be made to prevent placement of a child in out-of-home care, unless the child is at risk of imminent harm, and reasonable efforts be made to achieve timely permanency for a child who is placed in out of home care. "Reasonable efforts are to be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child."

Reasonable efforts to achieve a permanency plan shall not only be outlined in the court reports but are intricate parts of case planning. **Reasonable efforts shall be incorporated into the case plan and included in case contact notes.** Every service provided to the child, siblings, parents, family, and resource provider may be reasonable efforts and shall be documented in the case plan. Reasonable efforts documented in the court report must be made since the last court hearing at the last time the finding of reasonable efforts was made by the court. Reasonable efforts shall encompass the particular needs of the child and will vary from child to child depending on the case.

Resource Provider

An important aspect of concurrent permanency planning is recruiting, training, and supporting relative and non-relative resource providers willing to partner with parent(s) or legal guardian and LDSS to achieve reunification, and if reunification is not possible, to become the child's permanent family. Maryland offers dual approval for fostering and adopting to allow for the simultaneous preparation and approval for both foster and adoptive care.

When the resource provider and the child's parents or legal guardian are working with the caseworker as part of the team to achieve a plan that is in the child's best interest, they share a common goal. Whenever practicable, resource providers may remain involved with the parent(s) or legal guardian and child after reunification to offer continuity of relationships and support. When reunification isn't possible, the biological family who has worked closely with the resource provider may be more willing to make an adoption plan for their child.