

# **Title 07 DEPARTMENT OF HUMAN SERVICES**

## **Subtitle 02 SOCIAL SERVICES ADMINISTRATION**

### **Chapter 12 Adoption**

#### **07.02.12**

**01 Purpose**

**02 Definitions**

**03 Plan for Adoption**

**04 Post Adoption Services**

**05 Title IV-E Monthly Adoption Assistance**

**06 State Funded Monthly Adoption Assistance**

**07 Post Adoption Assistance**

**08 Adoption assistance for Nonrecurring Expenses of Adoption**

**09 Right to Appeal**

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### **Chapter 12 Adoption**

**Authority:** Education Article, §15-106.1; Family Law Article, Title 5, Subtitle 3, Subtitle 3A, Subtitle 3B, Subtitle 4, Subtitle 4A, §§5-101, 5-501, 5-524, 5-525, 5-525.1, 5-525.2, and 5-530; Human Services Article, §4-207; Annotated Code of Maryland; Ch. 444, Acts of 2007; 25 U.S.C. §§1901—1963, 42 U.S.C. §670 et seq.; 45 CFR 1355, 1356.4, and 1356.41

**.01 Purpose.**

Adoption services are provided to:

- A. Effect a permanent plan, through adoption, at the earliest possible time, for a child in out-of-home placement who cannot or should not be reunited with the child's birth parent;
- B. Protect a child from unnecessary separation from the birth parent;
- C. Provide, in the shortest time possible, an adoptive family who will ensure a child's safety and well-being;
- D. Permit adoption of a child only by individuals who are qualified for the responsibility; and
- E. Protect, as appropriate, the confidentiality of the adoption process and share nonidentifying medical information to permit an adopted child and adoptive family to grow and develop undisturbed.

## **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Administration" means the Social Services Administration of the Department of Human Services.
- (2) "Adoptee" means an individual:
  - (a) Whose adoption decree was issued by a Maryland court; or
  - (b) Who was placed for adoption by a:
    - (i) Maryland licensed child placement agency; or
    - (ii) Local department.
- (3) "Adoption" means a legal proceeding:
  - (a) By which an individual becomes the child of an adoptive family; and
  - (b) Which confers on the adopted child all the legal rights and privileges to which a child born to the adoptive family is entitled.
- (4) "Adoption assistance" means funds or services provided by a local department to the adoptive family on behalf of an adopted child, which may include:
  - (a) Monetary payment;
  - (b) Medical care;
  - (c) Medical assistance; or
  - (d) Special services.
- (5) "Adoption placement" means the placement of a legally free child with an approved adoptive family or individual who has signed an Adoption Placement Agreement.
- (6) "Adoptive family" means an adoptive parent or legal guardian who is eligible to receive adoption assistance on behalf of a child.
- (7) "Aid to Dependent Families (AFDC)" means the federal standard for aid as described in COMAR 07.02.11.30.
- (8) "Birth father" means the biological father of a child.
- (9) "Birth mother" means the biological mother of a child.
- (10) "Birth parent" means the biological mother or father of a child, and may include both jointly or individually as is applicable.
- (11) "Birth sibling" means an individual who shares at least one birth parent with an adoptee.
- (12) "Dissolution" means the parental rights of the adoptive parent have been terminated.
- (13) "Dual approval" means:
  - (a) The approval of a prospective family as a resource for both foster care and adoption; or
  - (b) The approval of a prospective family as a resource for both foster care and day care.
- (14) "Guardianship" means guardianship with the right to consent to adoption or long-term care short of adoption as conferred by a court on the executive head of a child placement agency, and terminates the rights, duties and obligations of the birth parent.

(15) "Independent adoption" means an adoption pursuant to Family Law Article, Title 5, Subtitle 3B, Annotated Code of Maryland.

(16) "Indian child" means a Native American child as defined in the federal Indian Child Welfare Act of 1978.

(17) "Intercountry adoption" means the adoption by a Maryland resident of a child from a country other than the United States.

(18) "Intermediate care rate" means a payment rate above the regular rate paid to a resource family home for a child requiring extra care and supervision because of special physical, emotional or behavioral needs, as defined in COMAR 07.02.11.

(19) "IV-E" means Title IV, Part E of the Social Security Act.

(20) "Local department" means the department of social services in a county or in Baltimore City, and the Montgomery County Department of Health and Human Services.

(21) "Mediation" means the consensual process whereby the parties are assisted by one or more impartial mediators to voluntarily arrive at a plan or agreement to expedite permanency or to decide the nature and extent of future contact between the birth parent, adoptee, and adoptive family.

(22) "Medically fragile child" means a child who:

(a) Depends at least part of each day on mechanical ventilation;

(b) Requires prolonged intravenous administration of nutritional substances or drugs;

(c) Depends on other device-based respiratory or nutritional support, including tracheostomy tube care, suctioning, oxygen support, or tube feeding on a daily basis; or

(d) Depends on other medical devices that compensate for vital body functions and requires daily or near daily nursing care, including a child who requires:

(i) Renal dialysis as a consequence of chronic kidney failure; or

(ii) Other mechanical devices such as catheters or colostomy bags as well as substantial nursing care in connection with the disabilities.

(23) "Minor parent" means a parent who is younger than 18 years old.

(24) "Nonidentifying information" means information including medical and birth family history information that does not disclose or permit disclosure of the identity or location of the birth parent or adoptee.

(25) Nonrecurring Adoption Expenses.

(a) "Nonrecurring adoption expenses" means expenses incurred by the adoptive parent of a special needs child involved in a public agency, private agency, independent, or intercountry adoption, or through a child placement agency licensed in another state if the family is not applying for or receiving adoption assistance from that state.

(b) Nonrecurring adoption expenses include:

(i) Reasonable and necessary adoption fees;

(ii) Court costs;

(iii) Attorney's fees;

(iv) The adoption home study costs, including health and psychological examinations;

(v) Supervision of the placement before adoption;

(vi) Transportation; and

(vii) The reasonable costs of lodging and food for the child and adoptive parent incurred during preplacement visits.

(26) "Open adoption" means an adoption in which it is the expressed intent of all parties to the adoption that the child maintains contact, including the possibility of visitation, with the birth parent or other birth relatives.

(27) Out-of-Home Placement.

(a) "Out-of-Home Placement" means placement of a child into foster care, kinship care, group care, or residential treatment care.

(b) "Out-of-Home Placement" includes an adoptive placement.

(28) "Parent" means the legal mother or father of a child or the biological mother or father whose rights have not been terminated, or a legal guardian other than a local department.

(29) "Permanency plan" has the meaning stated in COMAR 07.02.11.

(30) "Post adoption assistance" means a monthly adoption assistance authorized after finalization of an adoption based on a condition that was present but not known or discovered at the time of the adoption.

(31) "Post placement services" means services provided after adoptive placement to a child and the child's adoptive family after placement but before entry of a final decree of adoption.

(32) "Private agency" means an organization licensed by the Administration for the placement of children in homes or with individuals.

(33) "Public agency" means a local department of social services.

(34) "Regular care rate" means the rate paid for a child in foster care who requires regular care and supervision.

(35) "Special needs factor" means a condition specific to a child that prevents the child's placement without the provision of adoption assistance or medical benefits, including:

(a) A child 6 to 17 years old;

(b) Physical or mental disease or disability;

(c) Emotional disturbance;

(d) Membership in a sibling group;

(e) Recognized high risk of physical or mental disability or disease; or

(f) Race or ethnicity if combined with any of these factors.

(36) "Termination of parental rights" means the legal process of ending the rights and responsibilities of the parent.

(37) "Treatment foster care" means a program designed and implemented by a local department or child placement agency to provide intensive casework and treatment in a family setting to children with special physical, emotional, or behavioral needs as described in COMAR 07.02.11.

### **.03 Placement for Adoption.**

A. The decision to select a particular family for a child shall be based on the child's best interests and shall include consideration of:

- (1) The needs of the child;
- (2) The ability of a prospective adoptive family to meet the child's overall physical, mental, emotional, and psychological needs, as well as any identified special needs; and
- (3) The capacity of the prospective adoptive family to address the child's needs based on the child's cultural, ethnic, and racial background.

B. The local department may not delay or deny the placement of a child for adoption on the basis of race, color, or national origin of the prospective adoptive family or the child involved.

C. Selection of an Adoptive Home for a Child.

(1) In an adoptive placement of an Indian child, the local department shall give preference to placement as set forth in the federal Indian Child Welfare Act of 1978.

(2) When a child is in need of an adoption placement, the local department shall take the following steps to recruit adoptive families who can meet the child's individual needs:

(a) Use the following documented information in the child's agency record about the child to identify potential adoptive families:

- (i) Identifying information;
- (ii) History;
- (iii) Current behavioral issues; and
- (iv) An accurate description of the child's personality, recreational interests, and ties to birth relatives.

(b) Within 15 working days of a change in the permanency plan by the court to adoption, determine whether there is an appropriate adoptive family, approved by the local department, who is committed to adopt the child when the termination of parental rights petition is granted using the criteria set forth in §E(2)(a) of this regulation;

(c) Consistent with the best interests of the child, consider the following adoptive placement options in order of priority:

- (i) Adoption by a relative;
- (ii) Adoption by the current foster parent with whom a child has resided continually for at least 12 months or for a sufficient length of time to establish positive relationships and family ties; or
- (iii) Adoption by another adoptive family;

(d) If no appropriate local department approved family resource is identified within 15 working days of the change in the permanency plan, provide a strengths-based narrative, as described in §E(3) of this regulation, to the AdoptUSKids to identify prospective adoptive families; and

(e) Continue to engage in recruitment efforts until a permanent placement is achieved for the child unless there is a change in the child's permanency plan.

(3) The AdoptUSKids narrative shall be a strengths-based narrative that:

(a) Is respectful of the child's confidentiality concerns regarding the child's:

- (i) Identifying information;
- (ii) History;

(iii) Current behavioral issues; and

(b) Provides an accurate description of the child's:

(i) Personality;

(ii) Recreational interests; and

(iii) Ties to birth relatives.

D. Documentation in the case record of efforts to locate a family for a child shall include:

(1) Photolisting;

(2) Dates and descriptions of events attended by the child that provide an opportunity for the child to meet potential adoptive parents; and

(3) Written descriptions of the child used to promote the adoption.

E. Child Specific Recruitment Efforts.

(1) Some children may need child-specific recruitment efforts to recruit an adoptive family because of:

(a) Unique emotional needs that require families with parenting experience;

(b) Membership in a sibling group, and it would be in the children's best interests to be placed together;

(c) Physical, mental, or medical conditions indicating that the child will need a family with the capacity and the ability to make use of community resources and to advocate on behalf of a child with special needs; or

(d) Race or ethnicity, although the child's membership in a minority race or ethnic group alone does not qualify for child specific recruitment.

(2) Aggressive Recruitment and Placement of Siblings.

(a) Aggressive recruitment efforts shall be made to locate an appropriate family willing to adopt a sibling group for whom the Department has determined that placement together is in the siblings' best interest.

(b) If aggressive recruitment efforts fail to locate an appropriate family willing to adopt the siblings, preference for the separate placement of the siblings shall be given to families who are willing to assist the children in maintaining contact with each other.

(3) When difficulty in locating an appropriate adoptive family for a child is anticipated, the child shall be listed with, AdoptUsKids and other adoption exchanges before the 15th working day mandatory deadline in order to extend the parameters of the search as early as possible.

F. Open Adoption.

(1) Open adoption may permit contact between an adopted child and the child's birth relatives, including:

(a) Birth parents;

(b) Grandparents; or

(c) Siblings.

(2) A local department may explore an open adoption when:

(a) Older children in out-of-home care have formed significant emotional attachments to their birth parent or other birth relatives; or

(b) It is otherwise appropriate and in the child's best interests to maintain contact with the child's birth parent or birth relatives.

(3) Open adoption arrangements may be flexible to address the desires of the parties and the needs of the child and may include:

(a) Face-to-face contacts;



- (b) Communication using electronic mail and social networking sites; and
  - (c) The exchange of cards, letters, or phone calls, either directly or through a third party.
- (4) If mediation is used to facilitate an open adoption or adoption finalization, the local department shall:
- (a) Provide information to all parties regarding the mediation process; and
  - (b) Make any necessary referrals so that mediation may occur.

#### G. Adoption Placement Plan.

(1) If the resource family that provided out-of-home services to the child has been selected as the adoptive family of the child, the family shall sign an Intent to Adopt Placement Agreement.

(2) When a non-related resource family with whom the child has not previously lived is selected as the adoptive family, the child and family shall:

- (a) Have pre-placement visits prior to the day of placement; and
- (b) The family shall sign an Intent to Adopt Placement Agreement.

#### H. Postplacement Services.

(1) Goals of Postplacement Service. The local department shall:

- (a) Sustain permanence for children placed with adoptive families prior to finalization of the adoption;
- (b) Help resolve any adjustment problems that may occur during postplacement; and
- (c) Promote the integration of the family and child as a single-family unit.

(2) Duration.

(a) The child must live with the adoptive family for at least 6 months or shorter period allowed by the juvenile court on recommendation of the local department as set forth in Family Law Article, §5-349, Annotated Code of Maryland;

(b) Postplacement services may be extended by mutual agreement of the family and local department based on the needs of the child and the family.

(3) Requirements for Service. The agency caseworker shall:

(a) Clarify with the family the mutual rights and responsibilities in regard to the placement at the beginning of the placement as set forth in COMAR 07.02.25.07, .08, and .17;

(b) Provide postplacement services to all children and families before an adoption is finalized to strengthen and support the family functioning and integration.

(4) Content of Services. The agency shall:

(a) Provide evaluative, supportive, and educational services geared to adoptive family development with emphasis on the unique nature of adoption;

(b) Place special emphasis on the integrity and continuity of the child's heritage and genetic histories as to the continuing growth and development of the child as an individual, and to the development of the family as an integrated unit; and

(c) Maintain ultimate responsibility for other services set forth in COMAR 07.02.11.16G(4)(a) until the adoption is finalized by the Court.

(5) Frequency of Contact and Length of Service. The agency caseworker shall:

(a) Visit the adoptive family as often as indicated but at least monthly in accordance with requirements in COMAR 07.02.11.17 and .05 and Family Law Article, §5-349, Annotated Code of Maryland;

(b) Use observations during the visits in determining the frequency of visits and the family's readiness for finalization of the adoption; and

(c) Include the child in these visits according to the child's age and capability.

(6) Removal of a Child from Adoptive Home. The local department may remove a child before a final decree of adoption is issued if, in the opinion of the local department, conditions in the adoptive home impair the child's security in the family and jeopardize the physical safety or emotional development of the child;

(7) Decision to Finalize Adoption. The caseworker shall assess the readiness of the family to finalize the adoption based on the following indications:

(a) The family's indication that they are ready to adopt.

(b) The worker's recommendation that the adoption is in the child's best interest and that the family is ready to adopt;

(c) The child's indicated readiness in the following ways:

(i) A child over 10 years of age consents; or

(ii) A child under 10 years of age does not object.

(8) Once the family and the caseworker have determined that it is time to finalize the adoption, the caseworker shall:

(a) Prepare the necessary documents to support the family's finalization of the adoption; and

(b) Acquire the local department director's consent to the adoption.

I. Termination of Postplacement Services. Postplacement Services are terminated when the adoption decree is finalized by the Court.

## **.04 Post Adoption Services.**

A. Post adoption services may be provided to support the adoptive placement after adoption finalization in accordance with available staff resources.

B. Upon request of the adoptive family, the local department may make the following services available:

- (1) Short-term adoption related counseling;
- (2) Information and referral services; and
- (3) Provision of any additionally acquired medical, social, psychological, and genetic history of the minor adoptee to the adoptive family.

C. The agency shall provide services to the birth parent of an adopted individual until the adoptee is 21 years old:

- (1) Providing a birth parent the opportunity to update agency records with the appropriate birth family history;
- (2) Providing a birth parent the opportunity to release the agency from the confidentiality requirements relating to identifying information requested by the adult adoptee at some later date;
- (3) Accepting from a birth parent medical information critical to the adoptee's growth and development, and making full effort to communicate this to the adoptive family or the adult adoptee, as appropriate;
- (4) Accepting from an adoptee or the adoptive family medical information which may be critical to the birth family, and making efforts to communicate this to the birth family; and
- (5) Providing information and referral, when appropriate, regarding services available through the Mutual Consent Voluntary Adoption Registry and search, contact, and reunion services as set forth in COMAR 07.02.13.

D. The local department shall provide information to the adoptive family regarding the following:

- (1) Counseling in support of the placement and to prevent dissolution of the adoption;
- (2) Post Adoption Permanency Program services as described in §F of this regulation;
- (3) Referral services; and
- (4) The Maryland Tuition Waiver and the Maryland Education and Training Voucher program as set forth in COMAR 07.02.11.

E. Release of Nonidentifying Information.

(1) Upon request of an adoptee, or the adoptive or birth parent, a local department shall release all non-identifying medical and birth family history information contained in the closed adoption file to the requestor.

(2) When a local department has no medical information, local department staff shall inform the requestor of the:

- (a) Lack of the requested information; and
- (b) Right to petition the court to appoint a special intermediary to gather the needed medical information if the adoptee or a blood relative of the adoptee or birth parent has an urgent need for the medical information.

(3) When an adoptee or birth parent petitions the court for medical information, a local department shall attempt to locate the adoptee or the birth parent in order to obtain the needed medical information after the court:

- (a) Makes a judicial determination that there is an urgent need for the medical information; and
- (b) Appoints the local department as the intermediary.

(4) When a local department has been appointed intermediary and the adoptee or birth parent has been located, the local department:

(a) Shall advise the individual of the need for the medical information without revealing any identifying information about the adoptee or birth parent:

(b) May not encourage or discourage contact between the adoptee and the individual's birth parent; and

(c) Shall file a confidential report with the court addressing the efforts to contact the adoptee and the birth parent and the results when efforts to locate the adoptee or birth parent are completed.

(5) A local department shall:

(a) Provide all the available information on the location of the birth parent to anyone who has been court ordered to act as intermediary; and

(b) Place a copy of the court order appointing the intermediary in the records of the individuals involved.

#### F. Post Adoption Permanency Program Services.

(1) The purpose of the Post Adoption Permanency Program services is to provide post adoption assistance in the form of services to children adopted through a public agency or a licensed private agency and their adoptive families.

(2) A local department shall notify families of the availability of post adoption support services during the adoption orientation process.

(3) Upon the request of an adoptive parent for available post adoption support services, the local department of social services shall:

(a) Obtain a copy of the adoption decree from the adoptive family requesting support services;

(b) Conduct a clinical assessment of the needs of the child and the adoptive family; and

(c) Determine whether the adopted child is at risk of coming into of out-of-home placement, or foster care placement and in need of post adoption support services not available from other resources.

(4) Upon determining that an adopted child and adoptive family are in need of post adoption support services the local department shall:

(a) Develop with the family a proposed post adoption support services plan that:

(i) Identifies treatment goals;

(ii) Suggests treatment modalities; and

(iii) Recommends services;

(b) Select appropriate vendors from those providers approved by the local department; and

(c) Submit the plan to the Administration for review and funding plan approval.

(5) Upon submission of the proposed support services plan, the Executive Director or designee shall determine whether to approve the service plan and the funding necessary to implement the plan.

(6) The Administration shall notify the local department of the status of the proposed service plan within 15 days of receipt of the service plan request.

(7) Funds available for the provision of post adoption support services shall be:

(a) Limited to the maximum amount established by the Maryland General Assembly; and

(b) Provided during a fixed year until allocated funds are expended.

(8) The local department shall provide the post adoption support services to the adopted child or the adoptive family upon approval and release of funds by the Administration.

(9) Services may include:

- (a) Short-term adoption-related counseling;
- (b) Medical treatment;
- (c) Mental health services;
- (d) Crisis intervention services; and
- (e) Information and referral services.

## **.05 Title IV-E Monthly Adoption Assistance.**

A. Adoption assistance is medical benefits, and in appropriate cases a monthly payment, provided to adoptive families on behalf of eligible children to help the family defray the costs of meeting a child's special needs.

B. The Administration shall offer adoption assistance to the parent of an eligible child that meets the eligibility criteria for an applicable child or a nonapplicable child.

C. An eligible child shall be under the guardianship of a local department or a licensed private placement agency, or have been adopted in a consensual adoption pursuant to Family Law Article, §5-338, Annotated Code of Maryland.

### **D. IV-E Child Eligibility Criteria.**

(1) A child who is not a citizen or resident of the United States and who was either adopted outside the United States or brought to the United States for the purpose of being adopted may not be considered an applicable child, unless:

- (a) The adoption dissolves or the adoptive parent dies; and
- (b) The child is subsequently adopted from out-of-home placement.

(2) The Administration shall determine that a child is an applicable child, has special needs, and meets certain placement or medical criteria prior to an adoption in order for a child to receive IV-E adoption assistance.

(3) A child is an applicable child if:

- (a) The child is:
  - (i) 6 years old or older in fiscal year 2015;
  - (ii) 4 years old or older in fiscal year 2016; or
  - (iii) In federal fiscal year 2017, when a child of any age will meet the criterion;

(b) The child has been in foster care under the responsibility of the Title IV-E agency for at least 60 consecutive months; or

(c) The child is the sibling of a child that meets either the age or time in foster care requirements in §D(3)(a) and (b) of this regulation, and the siblings are placed in the same adoptive placement.

(4) Special needs for an applicable child exist when the child cannot or should not be returned to the home of the parent and:

(a) The child meets all medical or disability requirements for SSI, or one of the special needs factors exist; and

(b) Reasonable but unsuccessful efforts have been made to place the child without assistance, unless the child is being adopted by their foster parent and has significant emotional ties with that person.

(5) An applicable child meets placement or medical criteria if:

(a) The child is in the care of a public agency or a licensed child placement agency or tribe pursuant to:

(i) An involuntary removal in accordance with a judicial determination that it is contrary to the child's welfare to remain in the home;

(ii) A voluntary placement agreement; or

(iii) A voluntary relinquishment;

(b) The child meets all medical and disability eligibility requirements of SSI;

(c) The child was residing in a foster family home or childcare institution with their minor parent, and the minor parent was removed from the home pursuant to either:

(i) An involuntary removal in accordance with a judicial determination that it was contrary to the child's welfare to remain in the home; or

(ii) A voluntary placement agreement or a voluntary relinquishment; or

(d) The child was eligible for adoption assistance in a prior adoption and is now being subsequently adopted because the adoptive parents have died or their parental rights have been terminated.

#### E. Nonapplicable Child Eligibility Criteria.

(1) A nonapplicable child is a child that does not meet the applicable child criteria as detailed in §D of this regulation.

(2) A nonapplicable child will be eligible for IV-E adoption assistance if the child is a special needs child and the child meets certain placement or medical criteria prior to the adoption.

(3) Special needs for a nonapplicable child exist when:

(a) The child cannot or should not be returned to the home of the parent;

(b) One of the special needs factors exists; and

(c) Reasonable but unsuccessful efforts have been made to place the child without adoption assistance, unless the child is being adopted by their foster parent who provided foster care services and has significant emotional ties with that person.

(4) A nonapplicable child meets the placement or medical criteria prior to the adoption if:

(a) The child is Aid to Families with Dependent Children eligible at the time of removal pursuant to:

(i) An involuntary removal in accordance with a judicial determination it is contrary to the child's welfare to remain in the home; or

(ii) A voluntary placement agreement wherein the child received IV-E foster care payments in that placement;

(b) The child is eligible for SSI;

(c) The child's minor parent was in foster care and received foster care maintenance payments that covered the minor parent and the child; or

(d) The child was eligible for adoption assistance in a prior adoption and is now being subsequently adopted because the adoptive parents have died or their parental rights have been terminated.

#### F. Payments.

(1) The adoption assistance payment shall be determined through negotiation and agreement between the local department and the adoptive parent.

(2) The adoption assistance payment may be combined with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount and duration of the payment:

(a) Shall be based on the needs of the child and the circumstances of the family; and

(b) May not exceed the foster care payment received by the foster parents for the child.

(4) The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000.

(5) The local department may determine a \$0 payment is appropriate in certain circumstances, including:

(a) Adoption assistance is not needed by the parent at the time the adoption is finalized to defray the cost of meeting the child's special needs; or

(b) The child is at risk of developing a physical or mental disease or disability, but is not currently symptomatic.

(6) Allowances, paid to the resource parents in addition to the foster care payment, such as those for transportation, day care, or camp, or differential amounts paid to resource parents in certain counties, may not be included in the negotiated adoption assistance rate.

(7) Negotiation.

(a) The local department shall negotiate the amount of the adoption assistance based upon the:

- (i) Needs of the child;
- (ii) The circumstances of the family; and
- (iii) The family's ability to incorporate the child into their household.

(b) As a part of the negotiation process, the local department shall assess the child's needs based on:

- (i) Documentation in the record;
- (ii) Documentation provided by the adoptive family; and
- (iii) Any additional relevant information.

(c) The negotiation process shall include a discussion of:

- (i) The child's needs and the family's circumstances; and
- (ii) The assistance the local department may provide to help the family assume primary financial responsibility for the child.

(d) The local department and the adoptive parent shall explore the availability of other resources such as SSI and other Social Security benefits, adoption tax credits, educational or vocational training assistance, and community supports that may be available to meet the child's needs on an ongoing basis after the adoption is finalized.

(8) Concurrent Receipt of Benefits.

(a) The local department shall advise the family that, if the nonapplicable child receives SSI and adoption assistance at the same time, the SSI benefits will be reduced on a dollar-for-dollar basis in the amount of the IV-E adoption assistance.

(b) If a child receives other Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the amount of these benefits may be considered when negotiating the amount of the adoption assistance.

(c) The adoptive family shall report their receipt of adoption assistance to the Social Security Administration.

(d) The family shall report their receipt of benefits to the Administration while the adoption assistance agreement is in effect.

(9) Adoption assistance payments shall become effective on the date the adoption is finalized.

(10) If the local department makes an overpayment through error or some other means, the local department may recover the over payment.

G. Adoption Assistance Agreement.

(1) An adoption assistance agreement shall be:

- (a) In writing;
- (b) Binding on all parties;
- (c) On a form approved and distributed by the Administration; and
- (d) Signed by the director of the local department or designee and the adoptive parent prior to the finalization of the adoption.

(2) If the Maryland adoptive parent and the child move to another state:

- (a) The adoption assistance agreement shall remain in effect;



(b) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in the adoptive parent's state of residence; and

(c) The local department shall provide the state of residence with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence.

#### H. Medical Benefits.

(1) A child who has an adoption assistance agreement in effect is eligible for Medicaid benefits under the state Medicaid plan in his or her state of residence.

(2) Children who have an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid.

#### I. Interstate Adoption.

(1) If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that State shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' State of residence. In that event, the public child welfare agency in the adoptive parents' State of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.

(3) An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.

(4) In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.

(b) The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.

J. Death of Adoptive Parents or Dissolution of the Adoption. If a child is receiving IV-E adoption assistance and the adoptive parents die or the parental rights of the adoptive parents are terminated, the adoption assistance may be paid on behalf of the child:

(1) In a subsequent adoption; and

(2) If the child continues to meet the special needs factor criteria; and

(3) The Adoption Assistance Agreement is signed by the Director or designee and the subsequent adoptive parent prior to the finalization of the adoption.

#### K. Annual Redetermination.

(1) A local department shall review a child's continued eligibility for adoption assistance on an annual basis.

(2) The adoptive parent shall notify the local department of circumstances that would make them ineligible for adoption assistance payments or for adoption assistance payments in a different amount.

(3) A local department shall send a redetermination packet to the adoptive family at least 90 days prior to the annual renewal due date.

(4) At least 60 days prior to the annual renewal due date, an adoptive family shall submit documentation to the local department to enable the department to confirm the child's continued eligibility for adoption assistance at the current adoption assistance rate.

(5) Education, vocational training, and disability documentation for a child younger than 18 years old includes:

(a) Proof of routine medical care provided to the child within 6 months prior to the renewal date for the child who is not required to attend school due to age;

(b) Proof of enrollment and attendance for the child who is of the age where school attendance is compulsory in the form of:

(i) A current report card;

(ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or

(iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child; or

(iv) Proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date for the child who is enrolled in a home school program approved by the educational agency in the child's place of residence.

(6) Education, vocational training, and disability documentation for a child 18 years old or older includes:

(a) Documentation of a current mental or physical disability that warrants the continuation of adoption assistance; or

(b) If the child began receiving adoption assistance after reaching 16 years of age, documentation of:

(i) Enrollment in school;

(ii) Participation in a program or activity that promotes or reduces barriers to employment;

(iii) Employment for at least 80 hours per month; or

(iv) A medical condition due to which the child is incapable of any of these activities.

(7) If an adoptive family's failure to return the required information for renewal to the local department leads the Department to conclude that one of the bases for terminating the adoption assistance as stated in §M of this regulation exists, the local department may terminate the adoption assistance. The family must be given a letter of intended action that contains a statement regarding the right to appeal the determination.

#### L. Renegotiation of Adoption Assistance.

(1) The amount of the adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the adoption assistance agreement is in effect.

(2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of adoption assistance, such as the child's entry into out-of-home placement, and such information may include:

(a) School reports;

(b) Psychological evaluations;

(c) Medical reports;

(d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current adoption assistance amount or by medical assistance or community resources; and

(e) The amount of the adjustment requested.

(3) The renegotiated adoption assistance amount may not exceed the foster care payment the foster parent received when the child was in foster care.

(4) Changes in the adoption assistance amount shall be agreed to by the adoptive parent and approved by the Administration.

(5) If a child receives other Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the IV-E monthly adoption assistance payment may not be reduced to reflect receipt of this resource unless the adoptive parent agrees to the reduction.

#### M. Termination of IV-E Adoption Assistance.

(1) IV-E adoption assistance for an adoptive child shall be terminated when the adoptive child is 18 years old unless:

(a) The adoptive child who the local department has determined to have a mental or physical disability that warrants the continuation of assistance may continue to receive IV-E adoption assistance until age 21; or

(b) The adoptive child who was 16 years old or older when the adoption assistance payments began may continue to receive IV-E adoption assistance until age 21 provided that subsequent to the child's 18th birthday the child is:

- (i) The child is completing secondary education or a program leading to an equivalent credential;
- (ii) The child is enrolled in an institution which provides post-secondary or vocational education;;
- (iii) The child is participating in a program or activity designed to promote, or remove barriers to, employment;
- (iv) The child is employed for at least 80 hours per month; or
- (v) The child is incapable of doing any of the above described activities due to a medical condition.

(2) IV-E adoption assistance shall be terminated when:

- (a) The adoptive parents or the adoptive child dies;
- (b) The adoptive parent is no longer legally responsible for the child; or
- (c) The adoptive parent is no longer providing any financial support to the child.

(3) At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:

- (a) The intent to terminate the adoption assistance;
- (b) The specific regulations providing grounds for termination; and
- (c) A statement describing the adoptive family's right to appeal.

## **.06 State-Funded Monthly Adoption Assistance.**

A. State-funded adoption assistance is medical benefits, and in appropriate cases a monthly payment, to adoptive families on behalf of eligible adoptive children with special needs that is intended to help defray the cost of raising such children.

B. An eligible child:

(1) Is not eligible for a IV-E monthly adoption assistance;

(2) Is in the guardianship of a public or private agency or is going to be adopted in a consensual adoption pursuant to Family Law Article, §5-338, Annotated Code of Maryland; and

(3) Has a special needs factor as set forth in Regulation .02B(35) of this chapter.

C. A child is not eligible for adoption assistance if being adopted by a biological parent whose rights were previously terminated.

D. Payments.

(1) The adoption assistance payment shall be determined through negotiation and agreement between the local department and the adoptive parent.

(2) The adoption assistance payment may be combined with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount and duration of the payment:

(a) Shall be based on the needs of the child and the circumstances of the family; and

(b) May not exceed the foster care payment received by the foster parents for the child.

(4) The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000.

(5) Additional allowances, such as those for transportation, day care, camp, or other differential amounts paid to resource parents in certain counties, that may be paid to a resource parent in addition to the board rate may not be included in the adoption assistance rate.

(6) Negotiation.

(a) A local department shall negotiate the amount of the adoption assistance based upon the needs of the child and the circumstances of the family and the family's ability to incorporate the child into their household.

(b) As part of the negotiation process, a local department shall assess a child's needs based on documentation in the record or provided by the adoptive family and any additional relevant information.

(c) The negotiation process shall include a discussion of the child's needs, the family's circumstances, and the assistance a department may provide to help a family assume primary financial responsibility for a child.

(d) The local department and the adoptive parent shall explore the availability of other resources, such as SSI and other Social Security benefits, adoption tax credits, tuition waivers, educational or vocational training assistance, and community supports that may be available to meet the child's needs on an ongoing basis after the finalization of the adoption.

(7) Concurrent Receipt of Benefits or Other Income.

(a) If a child receives SSI and State-funded adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the adoption assistance.

(b) If a child receives other Social Security benefits, such as disability, survivor's benefits or retirement benefits, or other income, the monthly adoption assistance payment may be reduced to reflect the receipt of the additional resources.

(c) The family shall report their receipt of benefits to the Local Department while the Adoption Assistance Agreement is in effect.

(8) Adoption assistance payments shall become effective on the date the adoption is finalized.

(9) If the local department makes an overpayment through error or some other means the local department may recover the over payment.

#### E. Adoption Assistance Agreement.

(1) An adoption assistance agreement shall be in writing, and binding on all parties.

(2) An adoption assistance agreement shall be on a form approved and distributed by the Administration.

(3) An adoption assistance agreement shall be signed by the director of a local department, or designee, and the adoptive parent prior to the finalization of the adoption.

#### F. Medical Benefits.

(1) A child who is eligible for State-funded adoption assistance is eligible for Medicaid under Maryland's Medicaid State plan.

(2) A child with an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid under Maryland's Medicaid State plan.

(3) A State-funded adoption assistance recipient who moves to another state may be eligible for Medicaid in the new state of residence if the state offers reciprocity for children from Maryland who have a State-funded adoption assistance agreement.

#### G. Interstate Adoption.

(1) If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that state shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' state of residence. In that event, the public child welfare agency in the adoptive parents' state of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.

(3) An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.

(4) The adoption assistance agreement shall remain in effect if the Maryland adoptive parent and the child move to another state.

(5) In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.

(b) The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.

#### H. Death of Parents and Dissolution of the Adoption.

(1) Adoption assistance may not be denied to a child whose adoption has dissolved or whose adoptive parents have died if the child:

(a) Received adoption assistance during the child's prior adoption; and

(b) Continues to meet the special needs eligibility criteria set forth in §B of this regulation.

(2) The adoption assistance may be paid on behalf of the child to a subsequent caretaker if:

(a) The caretaker assumes legal custody and/or guardianship of the child; and

(b) The local department has determined that the caretaker is able to provide appropriate care for the child.

(3) Adoption assistance may not be paid on behalf of an adoptive child to a biological parent who has been awarded legal custody and/or guardianship of the child.

#### I. Annual Redetermination.

(1) The local department shall confirm annually the child's continued eligibility for adoption assistance.

(2) At least 90 days prior to the renewal due date, the local department shall send the adoptive family a written request for the required information necessary for redetermination.

(3) At least 60 days prior to the annual renewal due date, the adoptive family shall submit documentation to enable the local department to determine that:

- (a) The family is still legally and financially responsible for the care of the child at the time of the redetermination;
- (b) The child continues to meet the special needs criteria; and
- (c) The current amount of the adoption assistance payment is appropriate.

(4) The family shall submit the following documents:

(a) If the child is younger than 18 years old and not required to attend school due to age, proof of routine medical care provided to the child within 6 months prior to the renewal date;

(b) If the child is younger than 18 years old and of the age where school attendance is compulsory:

- (i) A current report card;
- (ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or
- (iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child;

(c) If the child is enrolled in a home school program approved by the educational agency in the child's place of residence, proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date; or

(d) If the child is 18 years old or older:

- (i) Documentation that the child has a mental or physical disability warranting the continuation of assistance; or
- (ii) Completing secondary education or a program leading to an equivalent credential; or
- (iii) Enrolled in an institution which provides post-secondary or vocational education; or
- (iv) Participating in a program or activity designed to promote, or remove barriers to employment; or
- (v) Employed at least 80 hours per month; or
- (vi) Incapable of doing any of the above described activities due to a medical condition.

(5) Suspension.

(a) A local department shall suspend the adoption assistance because of the following:

- (i) the adoptive family's failure to return the required information for renewal to the department;
- (ii) a child who was adopted re-enters out-of-home care.

(b) At least 30 days in advance of the planned suspension of the adoption assistance payments, a local department shall send the adoptive parent a:

- (i) Notice that includes the intent to suspend the adoption assistance;

(ii) Statement of the specific regulations cited as grounds for suspension; and

(iii) Statement describing the adoptive family's right to appeal the decision to the local department.

(c) If the payment is suspended due to family's failure to return the required information for renewal to the local department, the payment shall be reinstated on the date the adoptive family provides the required documentation, and a separate intended action letter must be sent to the family.

#### J. Renegotiation of Adoption Assistance.

(1) The amount of the adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the adoption assistance agreement is in effect.

(2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of adoption assistance, such information may include:

(a) School reports;

(b) Psychological evaluations;

(c) Medical reports;

(d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current adoption assistance amount or by medical assistance or community resources; and

(e) The amount of the adjustment requested.

(3) The renegotiated adoption assistance amount may not exceed the foster care payment the adoptive parent received when the child was in out-of-home care.

(4) Changes in the adoption assistance amount shall be approved by the Administration.

(5) If a child receives Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the State-funded monthly adoption assistance payment may be reduced to reflect receipt of this resource.

#### K. Termination of Adoption Assistance.

(1) State-funded adoption assistance may be terminated upon the occurrence of any of the following conditions:

(a) A child re-enters out-of-home placement;

(b) A legally responsible adoptive parent no longer provides the child's primary financial support;

(c) An adoptive parent's rights have been terminated;

(d) An adoptive parent dies and there is no suitable subsequent caregiver; or

(e) The child's 18th birthday if the child does not meet the conditions of §J(2) of this regulation.

(2) The adoptive child may continue to receive adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child has a mental or physical disability warranting the continuation of the assistance; or the child is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution which provides post-secondary or vocational education; or

(c) Participating in a program or activity designed to promote, or remove barriers to, employment; or

(d) Employed for at least 80 hours per month; or

(e) Incapable of doing any of the above described activities due to a medical condition.

(3) At least 30 days before the planned termination, a local department shall send the adoptive parent a notice that includes:

(a) The intent to terminate the adoption assistance;

(b) A statement of the specific regulations cited as grounds for termination; and

(c) A statement describing the adoptive family's right to appeal.



## **.07 Post Adoption Assistance.**

A. Post adoption assistance payment is a State Medicaid benefits and/or a State-funded monthly payment to adoptive families on behalf of adoptive children who have a condition that would have made them eligible for adoption assistance had the condition been known prior to finalization of their adoption.

B. A child may be eligible for post adoption assistance if:

(1) The child was in the guardianship of a Maryland public or Maryland private agency at the time of the adoption; and

(2) The child has a documented condition that existed at the time of finalization of the adoption but had not been "discovered or diagnosed," and if the condition had been known at the time of the finalization of the adoption it would have made the child eligible for adoption assistance.

C. Payments.

(1) A post adoption assistance payment shall be determined through negotiation and agreement between a local department and the adoptive parent.

(2) The post adoption assistance payment may combine with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount of a post adoption assistance payment may not exceed the foster care payment the parent would have received for the child if the child were in foster care at the time the adoption was finalized.

(4) The local department may determine a \$0 payment is appropriate for an eligible child who otherwise qualifies for the adoption assistance, if the Administration determines that:

(a) Post adoption assistance is not needed by the parent to defray the cost of meeting the special needs of the child at the time the post adoption agreement is entered into; or

(b) The child had a physical or mental disease or disability at the time of finalization, but is not currently symptomatic.

(5) Negotiation.

(a) A local department shall negotiate the amount of the post adoption assistance based upon the needs of the child and the circumstances of the family, and the family's ability to incorporate the child into their household.

(b) As part of the negotiation process, a local department shall assess the child's needs based on documentation in the record or provided by the adoptive family and any additional relevant information.

(c) The negotiation process shall include a discussion of the child's needs, the family's circumstances, and the assistance the local department may provide to help the family provide for the special needs of the child.

(d) The local department and the family shall explore the availability of other resources to meet the child's needs on an ongoing basis, such as SSI and other Social Security benefits, adoption tax credits, tuition waivers, and community supports that may be available.

(6) Concurrent Receipt of Benefits or Other Income.

(a) The family shall notify the Administration if the child receives other benefits while the adoption assistance agreement is in effect.

(b) If a child is eligible for SSI and State-funded post adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the post adoption assistance.

(c) If the SSI Program does not reduce the SSI grant, the local department of social services shall reduce the amount of the post adoption assistance grant dollar for dollar in the amount of the SSI payment.

(d) If a child receives Social Security benefits, such as survivor's benefits or retirement benefits, or other income, the monthly post adoption assistance may be reduced to reflect this resource.

(7) Post adoption assistance payments begin at the time the adoption assistance agreement is signed by the parties.

#### D. Post Adoption Assistance Agreement.

(1) A post adoption assistance agreement shall be in writing, binding on all parties, and between a local department and the family and the relevant agencies.

(2) The post adoption assistance agreement shall be on a form approved and distributed by the Administration.

(3) The adoption assistance agreement shall be signed by the director of the local department, or designee, and the family prior to payment.

#### E. Medical Benefits.

(1) A child who is eligible for State-funded post adoption assistance is eligible for Medicaid under Maryland's Medicaid State plan.

(2) A State-funded post adoption assistance recipient who moves to another state may be eligible for Medicaid in the new state of residence if the state offers reciprocity for children from Maryland who have a State-funded post adoption assistance agreement.

(3) A child with an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid benefits under the Maryland Medicaid State plan.

#### F. Interstate Adoption.

(1) If the state public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that state shall be responsible for entering into the post adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency did not have responsibility for placement and care of a child prior to finalization of the adoption, the post adoption assistance agreement should be applied for and made in the adoptive parents' state of residence.

(3) The post adoption payment shall not exceed the applicable board rate in Maryland or the applicable board rate in the state of residence while the child was in foster care, whichever was higher.

(4) If the Maryland family and the child move to another state, the post adoption assistance agreement shall remain in effect.

(5) In order to protect the interests of the child, a local department shall follow the procedures established by the Interstate Compact on Adoption and Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parents shall be referred by a local department to the appropriate federal Title XIX and Title XX agencies in their state of residence.

(b) The local department shall provide the state of residence with documentation regarding the child's eligibility for Maryland Medicaid and Title XX services.

#### G. Death of Parents and Dissolution of an Adoption.

(1) Post adoption assistance may not be denied to a child whose adoption has dissolved or whose adoptive parents have died if the child:

(a) Received an adoption assistance during the child's prior adoption; and

(b) Continues to meet the special needs eligibility criteria set forth in §B of this regulation.

(2) If an adoption dissolves or the parents die, post adoption assistance may be paid on behalf of a child to a subsequent caretaker if:

(a) The child continues to meet the special needs criteria;

(b) The caretaker assumes guardianship of the child; and

(c) A local department determines that the caretaker is able to provide appropriate care for the child.

#### H. Annual Redetermination.

(1) A local department shall confirm a child's continued eligibility for post adoption assistance annually.

(2) At least 90 days prior to the renewal due date, a local department shall send a written request for the required information necessary for redetermination.

(3) At least 60 days prior to the annual renewal due date, an adoptive family shall submit documentation to enable the local department to determine that:

(a) The family is still legally and financially responsible for the care of the child at the time of the redetermination;

(b) The child continues to meet the special needs criteria; and

(c) The current amount of the post adoption assistance payment is appropriate.

(4) The family shall submit the following documents:

(a) If the child is younger than 18 years old and not required to attend school due to age, proof of routine medical care provided to the child within 6 months prior to the renewal date;

(b) If the child is younger than 18 years old and of the age where school attendance is compulsory:

(i) A current report card;

(ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or

(iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child;

(c) If the child is enrolled in a home school program approved by the educational agency in the child's place of residence, proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date; or

(d) If the child is 18 years old or older:

(i) Documentation that the child has a mental or physical disability warranting the continuation of the assistance; or

(ii) Completing secondary education or a program leading to an equivalent credential; or

(iii) Enrolled in an institution which provides post-secondary or vocational education; or

(iv) Participating in a program or activity designed to promote, or remove barriers to employment; or

(v) Employed at least 80 hours per month; or

(vi) Incapable of doing any of the above described activities due to a medical condition.

(5) Suspension.

(a) A local department shall suspend the post adoption assistance because of the following:

(i) The adoptive family's failure to return the required information for renewal to the department;

(ii) A child who was adopted re-enters foster care.

(b) At least 30 days before the planned suspension, the local department shall send the adoptive parent a notice that includes:

(i) The intent to suspend the adoption assistance;

(ii) The specific regulations providing grounds for suspension; and

(iii) A statement describing the adoptive family's right to appeal.

(c) If the payment is suspended due to family's failure to return the required information for renewal to the local department, the payment shall be reinstated on the date the adoptive family provides the required documentation.

#### I. Renegotiation of Post Adoption Assistance.

- (1) The amount of the post adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the post adoption assistance agreement is in effect.
- (2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of post adoption assistance, such information may include:
  - (a) School reports;
  - (b) Psychological evaluations;
  - (c) Medical reports;
  - (d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current post adoption assistance amount or by medical assistance or community resources; and
  - (e) The amount of the adjustment requested.
- (3) The renegotiated post adoption assistance amount may not exceed the foster care payment the adoptive parent received when the child was in out-of-home care.
- (4) Changes in the adoption assistance amount shall be approved by the Administration.
- (5) If a child receives Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the State-funded monthly post adoption assistance payment may be reduced to reflect receipt of this resource.

#### J. Termination of Post Adoption Assistance.

- (1) State-funded post adoption assistance may be terminated upon the occurrence of any of the following conditions:
  - (a) A child re-enters out-of-home placement;
  - (b) A legally responsible adoptive parent no longer provides significant financial support to the child;
  - (c) An adoptive parent's rights have been terminated;
  - (d) The adoptive parent dies and there is no suitable subsequent caregiver;
  - (e) The child's 18th birthday if the child does not meet the conditions of §J(2) of this regulation.
- (2) The adoptive child may continue to receive post adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child has a mental or physical disability warranting the continuation of the assistance; or the child is:
  - (a) Completing secondary education or a program leading to an equivalent credential;
  - (b) Enrolled in an institution which provides post-secondary or vocational education;
  - (c) Participating in a program or activity designed to promote, or remove barriers to, employment;
  - (d) Employed at least 80 hours per month; or
  - (e) Incapable of doing any of the above described activities due to a medical condition.
- (3) At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:
  - (a) The intent to terminate the adoption assistance;
  - (b) A statement of the specific regulation cited as ground for termination; and
  - (c) A statement describing the adoptive family's right to appeal.

## **.08 Adoption Assistance for Nonrecurring Expenses of Adoption.**

A. In a domestic adoption, an adoptive parent of a child who meets the special needs criteria as delineated in Regulation .05(D)(4) or .05(E)(3) of this chapter may be eligible for reimbursement for certain nonrecurring expenses directly related to the legal process of adoption.

B. In an intercountry adoption, an adoptive parent of a child who meets the definition of a child with special needs may be eligible for reimbursement of certain nonrecurring expenses directly related to the legal process of adoption provided if the child is:

- (1) 5 years old or younger in federal fiscal year 2015;
- (2) 3 years old or younger in federal fiscal year 2016; or
- (3) 1 years old or younger in federal fiscal year 2017

C. As of October 1, 2017, children in an intercountry adoption will not be eligible for this subsidy.

D. In Maryland public agency adoptions, the local department shall determine that the child meets the definition of special needs prior to the adoption in order for the child to receive nonrecurring expense reimbursement adoption assistance.

E. In an independent or intercountry adoption, at least 60 days prior to finalization of the adoption, the family shall supply an official copy and official English translations of the following documentation necessary to enable the Administration to determine if the child meets the definition of a child with special needs:

(1) A court order terminating the parental rights of the birth mother and birth father, or in the case of an orphaned child, a death certificate for the child's birth mother and birth father;

(2) Current psychological or medical reports or evaluations, or testing results that document the existence of one of the special needs factors; and

(3) Documentation that reasonable, but unsuccessful efforts have been made to place the child in an adoptive home without providing adoption assistance, including:

(a) A notarized affidavit signed by the prospective adoptive parent stating that they will not adopt the child without the adoption assistance; and

(b) Photolisting, registration on one or more adoption registries, or other attempts on behalf of the child to identify other prospective adoptive parents in addition to those applying for the adoption assistance.

F. A lump sum maximum payment up to \$2,000 may be paid on behalf of the adoptive parents for documented expenses related to the legal process of adopting a child, including:

- (1) Homestudy fees;
- (2) Medical information required to complete the homestudy;
- (3) Legal fees;
- (4) Post placement supervision; or
- (5) Travel to meet the child.

G. A local department shall maintain documentation of reimbursement of nonrecurring expenses in an adoptive family's adoption case record.

H. Nonrecurring Expenses Adoption Assistance Agreement. An agreement for the payment of nonrecurring expenses shall be:

- (1) In writing;
- (2) Binding on all parties;

- (3) Between the local department and the prospective adoptive parent;
- (4) On a form approved by the Administration; and
- (5) Approval by the Administration.

07.02.12.09

## **.09 Right to Appeal.**

A. Each applicant for adoption assistance or family who is receiving adoption assistance has the right to appeal the denial, reduction, suspension, or termination of adoption assistance.

B. The local department shall:

- (1) Notify the applicant or family of the right to appeal the local department's decision in writing; and
- (2) Provide information as to the procedure to be followed in making an appeal.