

<b>Policy Subject:</b>	Applicable Child Assessment Request and Decision for Adoption Subsidy  Supplements SSA Policy Directive #22-07 Adoption Assistance Program Family First Preventive Services Act of 2018
<b>Effective Date:</b>	March 10, 2022
<b>Approved By:</b>	Denise Conway, LCSW-C <i>DC</i> Executive Director Social Services Administration (SSA)
<b>Policy Number:</b>	SSA/CW #22-06
<b>Revision Date:</b>	August 8, 2018, November 14, 2018, December 5, 2019, March 10, 2022
<b>Originating Office:</b>	Title IV-E Compliance and Eligibility
<b>Supersedes:</b>	Applicable Child Assessment Request and Decision for Adoption Subsidy SSA Policy Directive #16-22
<b>Programs Affected:</b>	Out-of-Home Placement (Adoption Services) Title IV-E Determinations

**I. Purpose**

The purpose of this policy directive is to set forth the procedure for the assessment of a prospective adoptive foster child as either an Applicable Child or Non-Applicable Child for Title IV-E adoption subsidy reimbursement. Both categories-Applicable and Non-Applicable will make a child eligible for a federal subsidy. This policy and the herein referenced Applicable Child Assessment, supplements SSA Policy Directive #22-07 Adoption Assistance Program.

**II. Background**

The Fostering Connections Act of 2008 (amending parts B and E of Title IV of the Social Security Act, 42 U.S.C. §673, referred herein as "the Act") expanded the criteria of adopted children whose subsidies are eligible for Title IV-E reimbursement. With the approval of the Title IV-E State Plan, Maryland is enabled to claim Title IV-E adoption subsidy reimbursement for applicable children as well as the traditional Title IV-E eligible foster child receiving an adoption subsidy.

**A. Applicable Child**

For the FFY 2010, which begins on October 1, 2009, an "applicable child" includes:

1. A child who is 16 years old or older in FFY 2010, with the age decreasing by 2 years for each fiscal year until a child of any age will be eligible after July 1, 2024; or

**The following is being amended to reflect the following changes as a result of the FamilyFirst Legislation:**

**The applicable child requirements apply only to children who will be age two or older by the end of the fiscal year their adoption assistance agreement was entered. However, a child may still be considered "an applicable child" if the child is a sibling of an "applicable child" and meets requirements as detailed at section 473(a)(2)(A)(ii) of the Act. Title IV-E adoption assistance agreements entered into prior to January 1, 2018 are not affected by these changes.**

**Beginning January 01, 2018, title IV-E agencies must determine whether a child is an "applicable child" based on the child's age by the end of the federal fiscal year their adoption assistance agreement was entered into as demonstrated by the table below:**

16-18	October 1, 2009 – September 30, 2010	4-18	October 1, 2015 – September 30, 2016
14-18	October 1, 2010 – September 30, 2011	2-18	October 1, 2016 – September 30, 2017
12-18	October 1, 2011 – September 30, 2012	0-18	October 1, 2017 – December 31, 2017
10-18	October 1, 2012 – September 30, 2013	2-18	January 1, 2018 – June 30, 2024 ***Note: Must be age 2 by end of federal fiscal year
8-18	October 1, 2013 – September 30, 2014		
6-18	October 1, 2014 – September 30, 2015	0-18	July 1, 2024
None of the ages apply for the below:			

1. A child who has been in foster care under the responsibility of the ~~the~~ department for **60** consecutive months; or
2. A child who is the sibling of a child who meets the age or time in foster care requirements outlined above and is placed in the same adoptive home.

If the child meets the above criteria, certain placement, or medical criteria, and has "special needs", the child will be eligible for a IV-E adoption assistance as an applicable child. However, if a child is not a U.S citizen or resident and has been adopted outside the U.S. or brought to the U.S for the purpose of being adopted s/he may not be an applicable child.

If the child does not meet the criteria for an applicable child, the child may still be eligible for IV-E adoption assistance if the child meets the non-applicable child criteria.

**A non-applicable child is:**

1. A child with "special needs" is defined in the Code of Maryland Regulations 07.02.12.02(B)(35) as follows:
  1. Child between 6 and 17 years of age;
  2. Physical or mental disease or disability;
  3. Emotional disturbance<sup>1</sup>;
  4. Membership in a siblings group;
  5. Recognized "high risk" of physical or mental disability or disease; or
  6. Minority race or ethnicity, if combined with any one of the above conditions or factors; and
2. The child cannot or should not be returned to the home of the parents, in accordance with criteria that the Title IV-E agency (DHS) has established; and
3. Reasonable, but unsuccessful, efforts have been made to place the child with adoptive parents without providing adoption assistance or Medical Assistance. The child cannot or should not be returned to the home of the parents, in accordance with criteria that the Title IV-E agency (DHS) has established; and

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<sup>1</sup> Emotional disturbance has the same meaning as "Emotional Disability" as defined in COMAR 13A.05.01.03B(23)

(a) "Emotional disability" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects a student's educational performance:

- (i) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (iii) Inappropriate types of behavior or feelings under normal circumstances;
- (iv) A general, pervasive mood of unhappiness or depression; or
- (v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(b) "Emotional disability" includes schizophrenia.

(c) "Emotional disability" does not include a student who is socially maladjusted, unless it is determined that the student has an emotional disability.

<sup>2</sup> "High risk" is defined as certain factors that may increase a person's risk of developing physical or mental health problems, including, but not limited to:

- Exposure to drugs and/or alcohol in utero or after birth
- History of mental illness, substance abuse, or suicide in the family or a previous mental illness
- Stressful life situations, such as domestic violence, physical abuse, neglect, mental injury, sexual abuse, exposure to trauma
- An ongoing (chronic) medical condition, such as diabetes
- Brain damage as a result of a serious injury (traumatic brain injury), such as a violent blow to the head

4. Reasonable, but unsuccessful, efforts have been made to place the child with adoptive parents without providing adoption assistance or Medical Assistance, unless such efforts are excused because of significant emotional ties between the child and their foster parent.

If the child meets these "special needs"<sup>3</sup> criteria and meets certain non-applicable child placement or SSI criteria, s/he will be eligible for a IV-E adoption assistance as a non-applicable child.

### III. The Assessment

The Applicable Child Assessment Request (hereinafter "Request"), and Applicable Child Decision Form (hereinafter "Decision") together constitute the "Applicable Child Assessment" (assessment). The Assessment must be completed prior to the adoption subsidy negotiation. This will ensure the correct Adoption Subsidy Agreement is completed for the child and that the child meets the initial qualifications for a federal adoption subsidy as either an applicable child or a non-applicable child. Title IV-E reimbursement can only be claimed for an eligible applicable or non-applicable child if the Federal Adoption Subsidy Agreement is completed prior to adoption finalization.

While the Assessment is separated into the two forms for ease of submission, the Assessment is a single process. Therefore, the Section numerations of the documents remain sequential. The Request consists of the General Information Sections, Section I, and the Casework Signature Section. The Decision consists of Sections II, III, and IV and the Title IV-E Signature Section.

### IV. Procedure-Caseworker Submission of Request

The caseworker makes the request for an assessment. In order to request an assessment, the caseworker is to complete the Assessment Request Form (General Information and Section I) and submit to the Title IV-E unit/person at the local department of social services prior to entering negotiation for an adoption subsidy.

*Note: If Assessment is incomplete, or required documentation is not included, the Specialist will complete Section III and return to casework staff. The caseworker will need to resubmit.*

#### ***Assessment Request Form***

##### General Information

This section includes identifying information necessary for the Assessment. In order to supply the adoption client information, the adoption planning information must be completed. An Assessment without the necessary adoption client information will be returned as incomplete.

1. Child name
2. Date of Birth
3. Client ID
4. Prospective Adoptive Parent(s)

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<sup>3</sup> The special needs criteria for an applicable child differ from the special needs criteria for a non-applicable child as follows: if an applicable child meets all the medical or disability requirements for SSI, the criteria for the factor or condition element of the special needs determination will have been met.

Section I of the Assessment is to be completed by the caseworker. The following information is required:

A. Child Status Information

1. Child's age by the end of the federal fiscal year in which the adoption assistance agreement was entered. Check appropriate box.
2. Child entry into out-of-home placement is more than 60 months.
3. Is this child a sibling of a child who qualifies as an Applicable child?  
Requires additional information including name of applicable child sibling, name of adoption placement, and date of applicable sibling's adoption decree or date of applicable sibling's applicable child assessment.

B. Placement and Medical Information

1. Information on how the child entered the care of the LDSS. This can be by involuntary removal, by voluntary placement, or by voluntary relinquishment. Involuntary or voluntary placement requires supporting dates and court findings/determinations dates or voluntary placement agreement date. The voluntary relinquishment requires a date of relinquishment.
2. Whether the child **meets medical and disability eligibility requirements** of SSI. Documentation required includes completed and current Disability information. Additional information required whether the child was receiving SSI prior to entry to out-of-home placement or anytime during the current episode. This requires documentation of Social Security determination of eligibility of the disability (regardless of whether eligible for payment).
3. Whether the child is a child of a minor parent residing with minor parent in foster family home or childcare institution. If so, additional information is required including name of the minor parent, the date of removal for the minor parent, and the date of the first court order with contrary to welfare finding for the minor parent.

C. Special Needs of Child

1. If child does not meet special needs criteria, the child is not eligible for subsidy.
2. Whether the child can be returned to the home of the parent. Requires additional explanation as to why child cannot be returned.
3. Whether the child meets:
  - a. Medical and disability **requirements** for SSA (documentation above SSI requirement can be used, or completed and current medical and diagnosis from medical or mental health professional current within no more than 1 year of the request)
  - OR**
  - b. Special needs factors. If meets special needs factors, will need to check the appropriate special needs. **Note:** Race or Ethnicity can only be chosen as a special needs factor in combination with other factors.
4. Describe in detail the reasonable but unsuccessful efforts made to place the child without assistance, or fully detail the significant emotional ties if the child is being adopted by the foster parent.

**D. Title IV-E Status**

1. Indicate if child is currently eligible as foster child for Title IV-E or is eligible (currently receiving by any representative payee or suspended less than year) for SSI,
2. Indicate if the child was eligible for Title IV-E Adoption Assistance payments in a prior adoption. If so, additional information will need to be completed including documentation of prior adoption and eligibility, documentation of TPR of adoptive parents, or documentation of adoptive parents' death.

**Submission to Title IV-E Unit**

The Request form is to be signed and submitted to the Title IV-E Unit. Section I including the caseworker signature and date section is to be signed. It can then be submitted electronically to the Title IV-E Unit. The entire form must be submitted in order for the process to begin.

**III. Procedure -Title IV-E: The Decision Completion of the Assessment**

Upon receipt of the completed Request, the Title IV-E Unit will complete the Decision form (Sections II and IV and Section III only if necessary) within 5 business days.

***Assessment Decision Form***

This Decision is to be completed by the Title IV-E Specialist. The specialist must first review the Request form to be sure that all information and documentation required is complete. If not completed or if required documentation is missing, the specialist will complete Section III and return the Request and the completed Decision Section III immediately to casework staff. Sections II and IV will not be completed until a complete Request is resubmitted.

The Decision for the Assessment is completed in Section II, in two parts that must be performed in order. First is the child an applicable child? If not, then is the child a non-applicable child? Both aspects of the assessments are performed using the information submitted by the caseworker in Section I.

**Section II****a. Assessment as an Applicable Child**

To be an applicable child the child must meet:

- o At least 1 of the three criteria of the child status criteria of Section IA
- o At least 1 of the placement and medical criteria of Section 1B and
- o All of the criteria of Section IC.

If child fails to meet any of the 3 criteria as stated above, the child is not an applicable child.

- i. Section IA - Child Status Criteria. Child must either:
  1. Meet the age criteria (2-18) for the federal fiscal year in which the adoption assistance agreement was entered, or
  2. Have been in care for a continuous 60 months of care. This care cannot be disrupted and must be continuous for the current episode for which the child is being adopted. Documentation includes an entry date. The specialist must confirm that the episode has been uninterrupted; or
  3. Be the sibling of an applicable child (by age or length of care) who is being placed in the same adoptive home placement. The applicable sibling may either be simply assessed as an applicable child being placed in same adoptive placement or may be assessed as applicable child and adoption finalized. The sibling must be an applicable child, simply being an adopted child eligible for Title IV-E subsidy will not fulfill this requirement.

***Direction:***

- a. *If the child does not meet either of these Child Status criteria of this section, the child is not an applicable child. However, since child may still be a non-applicable child, continue to the next section.*
- b. *If the child meets at least one of the Child Status criteria of this section, the child has completed **one of the three** assessments in order to be an applicable child. Continue to the next section*

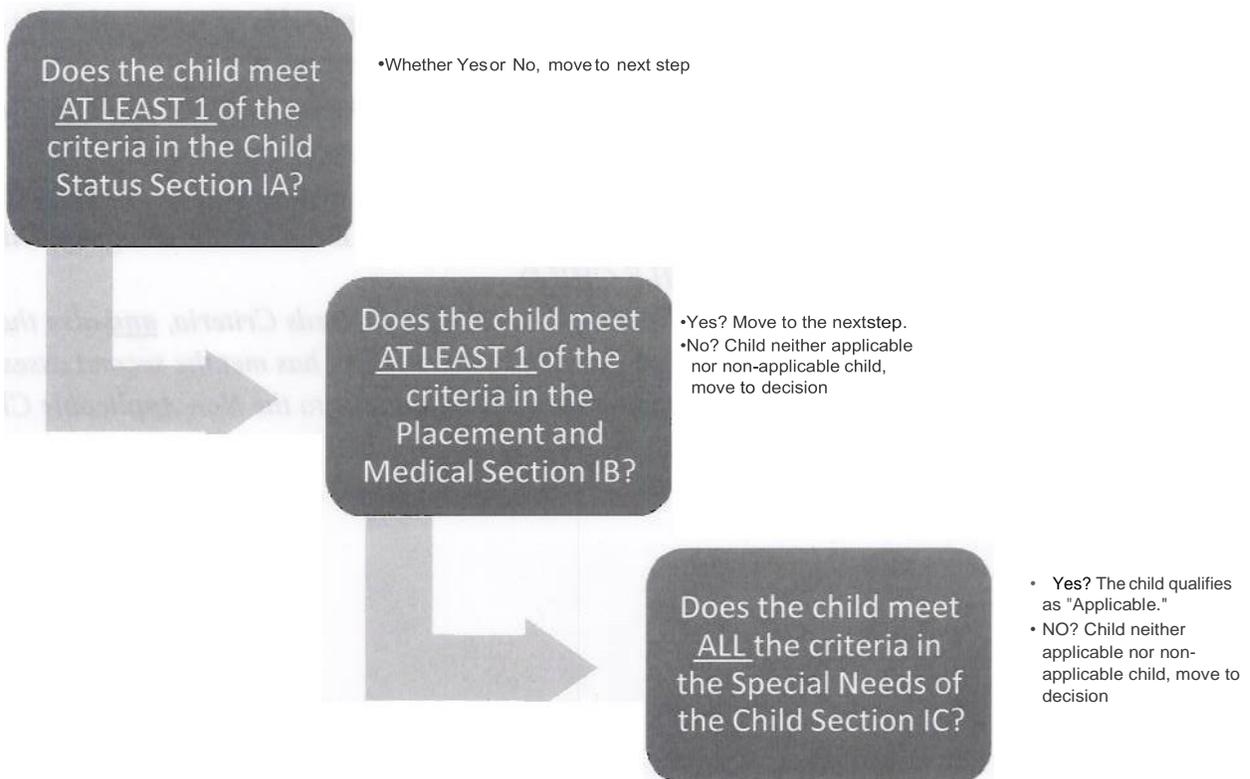
- ii. Section IB - Placement and Medical Criteria. Child must either:
  1. Have entered care of agency by an involuntary removal, voluntary placement, or voluntary relinquishment. Specialist must confirm the date of removal and contrary to welfare finding for involuntary placement or best interest finding for voluntary placement or voluntary relinquishment date; or
  2. The child meets all medical and disability eligibility requirements of SSI. This can be by either the child receiving SSI prior to removal or at any time during the current episode. The child does not currently have to be receiving SSI; or
  3. Be the child of a minor parent residing in a foster family home or childcare institution. The child does need to be committed to the agency but must be residing in a minor parent living arrangement either in a foster family home or a childcare institution. The specialist must confirm the minor parent's removal and that a contrary to the welfare finding was correctly made in the initial court order.

***Direction:***

- a. *If the child does not meet at least one of the Placement and Medical criteria, the child is not an applicable child. This requirement must also be fulfilled for a non-applicable child, if the child does not meet at least one Placement and Medical criteria, the child cannot be a non-applicable child. Go to Section IV and complete decision.*
  - b. *If the child meets at least one of these Placement and Medical criteria, the child has completed the second of the three assessments in order to be an applicable child or completed one of the three assessments to be a non-applicable child. Continue to the next section*
- iii. Section IC - Special Need of Child. In order to be an applicable child, the child must next meet all three requirements of a Special Needs Child.
1. First child must not be able to return to the home of the parent. Assessment form should include information as to why the child cannot be returned AND
  2. Child must meet either medical disability requirements for SSI or special needs factors.
    - a. Child must meet the medical disability requirements for SSI, and it is detailed in Section IB2. OR
    - b. Child must meet the special needs factors:
      - i. Child 6-17 years of age
      - ii. Physical or mental disease or disability (documentation required)
      - iii. Emotional disturbance (documentation required)
      - iv. Membership in sibling group - list siblings in care eligible for adoption in same adoptive placement
      - v. Recognized high risk of physical or mental disability or disease (explanation required)
      - vi. \*Race or ethnicity - can only be in combination one of the factors (i-v)
      - vii. The child must meet only one factor unless Race or ethnicity is chosen, then the child must meet 2 factors. AND
  3. Reasonable but unsuccessful efforts must have been made to place the child without assistance OR the child must be adopted by the foster parent with whom the child has significant emotional ties. The reasonable efforts or significant emotional ties must be fully detailed.

**Direction:**

- a. *If the child does not meet all three Special Needs Criteria, child cannot get a federal adoption subsidy as an applicable or non-applicable child. Go to Section IV and complete the decision.*
- b. *If the child meets all three Special Needs Criteria **and** has also met the Child Status Criteria **and** Placement and Medical Criteria, then the child meets the final requirement to be assessed as an applicable child. Goto Section IV- Applicable Child Decision and designate child is an **APPLICABLE CHILD**.*
- c. *If the child meets all three Special Needs Criteria, **and** also the Placement and Medical criteria child has met the second assessment for a non-applicable child Continue to the Non-Applicable Child Assessment.*



b. Non-Applicable Child Assessment

First step in the assessment of the child as a non-applicable child is to have completed the assessment as an applicable child and found that the child is NOT an applicable child.

Additionally, the child must meet at least I criterion of Section IB, all the criteria of Section C, and one of the two criteria of Section ID. The Non-Applicable Child Assessment requires the next 2 additional assessment criteria.

i. Not an Applicable Child

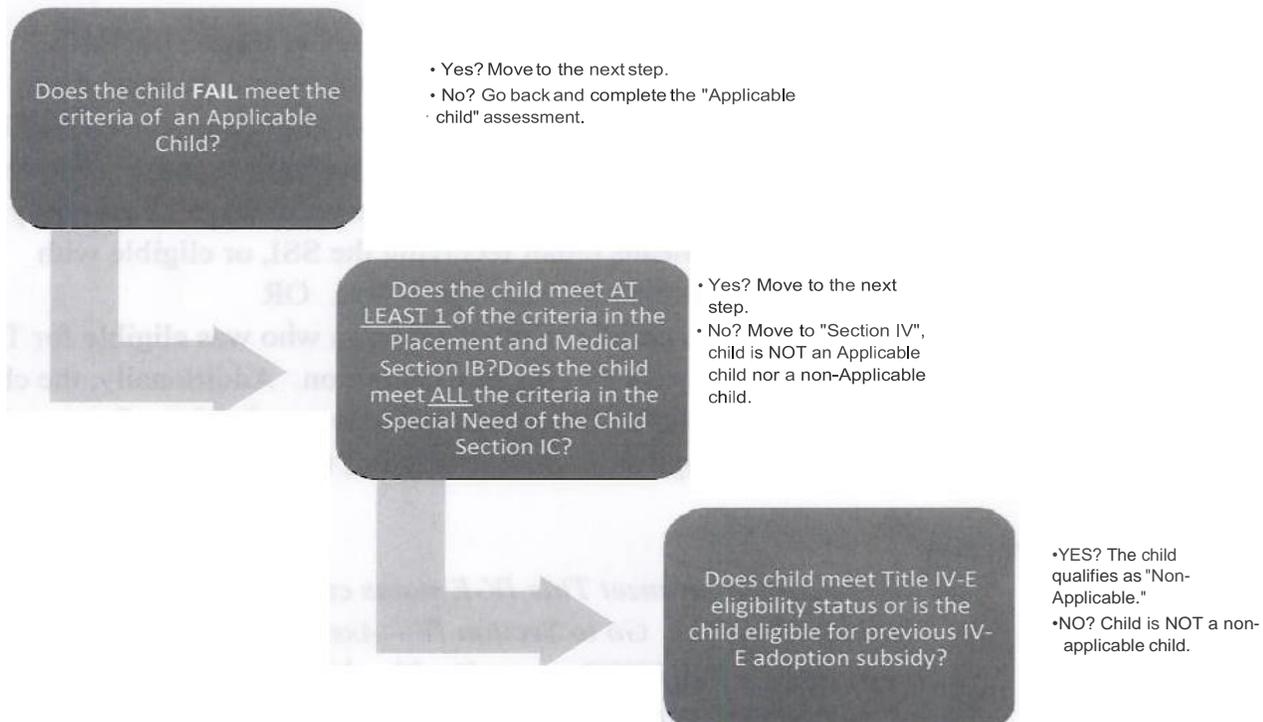
1. If the applicable child part of the assessment has not been completed, go back and complete. This is crucial as the federal criteria requires that in order to be a non-applicable child, the child must first be assessed to not be an applicable child.
2. Once the child has been assessed to not be an applicable child, the child must meet the required conditions of the additional three criteria to be a non-applicable child.
3. If child does not meet special needs criteria, the child is not eligible to receive federal subsidy-Stop the process and return to worker

ii. Section ID Title IV-E Status. The child must either meet Title IV-E requirements or be a child eligible for assistance from a prior adoption.

1. If the child is currently either Title IV-E eligible or currently SSI eligible the child meets the Title IV-E foster care status. The child must either be an eligible Title IV-E foster child or be currently SSI eligible. This means either receiving the SSI, or eligible with payments suspended for less than 1 year. OR
2. Child must be a child of a prior adoption who was eligible for Title IV-E adoption assistance in the prior adoption. Additionally, the child must now be eligible for adoption due to termination of parental rights of the prior adoptive parents or death of the prior adoptive parents.

***Direction:***

- a. *If child does not meet Title IV-E status criteria, child is not a non--applicable child Go to Section IV -Assessment Decision and enter that child is NEITHER an applicable child nor a non-applicable child.*
- b. *If child meets Title IV-E status criteria, child has met the fourth and final requirement for non-applicable child. Go to Section IV - Assessment Decision and enter that child is a NON-APPLICABLE child.*



### Section III

If the information or documentation submitted by the caseworker in Section I is incomplete the Assessment must be returned.

1. The Specialist is to:
  - a. Complete this section, and
  - b. Return the Assessment electronically and in hard/scanned copy to the caseworker immediately.
2. The caseworker will have to resubmit the information and re-sign the form for Section I in the resubmission signature box.
3. The 5-day time frame begins anew with the resubmission.

### Section IV Decision

The final decision for the assessment is to be entered in this section. The decision will be the child is:

1. An applicable child-Complete Title IV-E Adoption Agreement forms;
2. A non-applicable child-Complete Title IV-E Adoption Agreement forms; or
3. Neither an applicable nor non-applicable child-Complete State Adoption Agreement forms.