Eligibility for Child Welfare Programs

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The New York State Office of Children and Family Services
Title IV-E Foster Care Eligibility for Child Welfare Programs

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The New York State Office of Children and Family Services requested that the Center for Development of Human Services, which is part of the SUNY Research Foundation at Buffalo State College, prepare a Title IV-E Foster Care Eligibility Training module and train local district staff on this eligibility funding stream. As caseworkers, most of you provide services to children. These services are paid through various federal, State, and local funding streams, and as caseworkers you need to be equipped with a working knowledge of those streams and how they apply to your work.

This training is the direct result of that initiative. It is intended to do a number of things, including the following:

- Describe Title IV-E funding, the relevant federal eligibility requirements for Title IV-E and explain each eligibility rule.
- Provide instruction on the acceptable documentation for the requirements within Title IV-E funding.
- Provide a practical “walk through” of required WMS transactions.
- Explain the Medicaid implications for Title IV-E for children in foster care.

You may ask yourself, “Why is this important to me? My most important job is to see that children receive the assistance and care necessary for their safety and permanency.”

As you will see, many of the State mandates that you deal with on a day to day basis relating to foster care cases also involve federal Title IV-E requirements. These standards enhance safety and permanency of individual children. Complying with Title IV-E foster care eligibility standards can be important to future eligibility for Title IV-E eligibility adoption assistance. The fiscal consequence for not complying with Title IV-E requirements can be significant to your agency and your community. In an individual case it means the availability (or loss) of reimbursement of 50% of the costs for maintenance and administration. When lost, the financial burden shifts to the State and locality. If Title IV-E eligibility is not properly determined and documented, the State and localities face the potential of severe fiscal sanctions following periodic federal reviews that impact the availability of resources needed for you to carry your job.
There is a hierarchy in making eligibility determinations and it will always begin with the federal funding category that yields the most federal dollars into the county.

Order of Eligibility Determination

1. Title IV-E

2. TANF-EAF

3. Title XX Below 200% of Poverty

Title XX Below 200% of Poverty no longer performed for children in foster care. See GIS 07-004
Why is this important to me?

If I don’t follow the instructions, individual cases will not be eligible for federal reimbursement and also my county may be subject to severe federal sanctions when audited.

SO................

$ I need to document carefully to make sure those who are eligible get the services they need.

$ In these VERY tight financial times, a severe sanction can directly affect services and directly affect my job.

$ I must be very aware of the hierarchy in funding eligibility and always begin with determining eligibility for the FEDERAL fund stream that yields the most Federal dollars to my county first!
Title IV-E Eligibility – Foster Care

Objectives:

- Describe what is covered under Title IV-E Foster Care Program
- Explain the Title IV-E eligibility requirements
- Outline the documentation requirements for Title IV-E Foster Care
- Explain how to code WMS appropriately

Description:
This is a means to provide federal reimbursement for foster care maintenance and certain related administrative costs when a child meets the Title IV-E criteria and the documentation requirements for eight eligibility requirements. (Funding breakdown: 50% Federal; State= Block Grant)

When we refer to Title IV-E, we mean the title of the federal Social Security Act that sets forth the standards for the ability of New York, and, in turn, the county, to receive federal reimbursement for the care and maintenance of foster children and the administrative costs associated with such cases.

Title IV-E eligibility should be the first source of funding pursued for foster care cases. If you are unable to obtain supporting documentation to make an eligibility determination or if an ineligibility determination is made for the Title IV-E, then other sources of funding must be pursued.

Title-IV-E Foster Care Documentation Requirements:
Throughout this training when we discuss the documentation requirements, we will be referencing the Initial Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Worksheet; copies of these forms are in your Trainee packets. (We encourage counties to use the latest version of the automated worksheet. If you want to use the automated form, you can access the form at:


You may access both the form and the corresponding Guide via the OCFS Title IV-E Website.

The Initial Foster Care Eligibility Checklist (LDSS-4809) was recently revised (5/13) and can be accessed via the OCFS Title IV-E website—Please see the “Resources” handout for instructions.

Eligibility for Title IV-E may be claimed if and when it can be documented – completion of the Initial Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Worksheet is the first step in determining eligibility. Title IV-E may not be claimed until all eligibility requirements are satisfied.
Please pull these forms from your trainee packets. If you look at the first few pages of each form, you will see that there are eight major requirements listed which must be documented:

Before we look at each one of these requirements individually to see what the rules say is acceptable documentation, let’s go over the following basic definitions.

<table>
<thead>
<tr>
<th>Definitions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Authority</strong> – care and custody or custody and guardianship with LDSS/ACS Commissioner.</td>
</tr>
<tr>
<td><strong>Contrary to the Welfare/Best Interests</strong> – continuation in home is contrary to the welfare of the child or removal is in the best interests of the child or removal of the child is necessary to prevent imminent risk.</td>
</tr>
<tr>
<td><strong>Reasonable Efforts to Prevent Removal</strong> – as determined by the court efforts were made to prevent removal of the child including where appropriate, that no efforts were reasonable or that due to statutorily specified circumstances, reasonable efforts are not required.</td>
</tr>
<tr>
<td><strong>Parental Deprivation</strong> – lack of parental support and care during the month of removal.</td>
</tr>
<tr>
<td><strong>Eligibility for AFDC</strong> - child meets July 1996 AFDC eligibility rules</td>
</tr>
</tbody>
</table>

*AFDC = Aid to Families with Dependent Children*
Requirement 1: Age
The next question on the Initial Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Worksheet is regarding the child’s age on the date the court order/Voluntary Placement Agreement was signed.

**Eligibility Rule:** Under NYS law, a child must be under age 18 to enter foster care. This means that according to New York State (NYS) statute the child must have been under the age of 18 years on the date that the court order/Voluntary Placement Agreement was signed. To determine if the child meets the age requirement for Title IV-E benefits, you need to look at the child’s age on the date that the court order/Voluntary Placement Agreement was signed.

Effective November 11, 2010, certain categories of youth who had been in foster care may re-enter foster care after age 18 as a new foster care episode.¹

### Acceptable Documentation

Look at the date the court order/Voluntary Placement Agreement was signed and compare it to the child’s date of birth from:

- Non-services WMS screen reflecting the child’s date of birth
- Birth certificate²
- Baptismal certificate
- Hospital Records
- U.S. Passport
- Naturalization certificate
- Court records
- School records
- Family Assessment and Service Plan (FASP)/Progress notes that substantiate one of the above certificates was seen by the caseworker—should include the child’s name, date of birth, parents’ names and type of certificate or certificate number, if available

Confirm that case record information is consistent with the information being documented. If there are discrepancies, they must be explained.

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¹ See 11-OCFS-ADM-02 for details regarding re-entry into foster care.
² See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.
Requirement 2: Citizenship

If you look at the next page of the Initial Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Worksheet, you will see “Citizenship” listed. The eligibility rule regarding “Citizenship” is that the child must be a United States (US) citizen or a qualified immigrant defined by federal law (Personal Responsibility Work Opportunity and Reconciliation Act of 1996 –PRWORA).

Citizenship or immigration status of any child in foster care must be verified regardless of whether Title IV-E foster care payments are made on their behalf. This citizenship/qualified immigrant requirement is identical to the TANF- EAF Program; an answer of “No” on the checklist/worksheet results in ineligibility for any federal funding except for certain emergency services including child protective, emergency medical services, residential domestic violence services and non-residential adult protective services.

Acceptable Documentation

The acceptable documentation that verifies citizenship/qualified immigrant status is...

<table>
<thead>
<tr>
<th>U.S. Citizen</th>
<th>Qualified Immigrant</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Birth certificate&lt;sup&gt;3&lt;/sup&gt;</td>
<td>• WMS Case Composition screen showing child receives</td>
</tr>
<tr>
<td>• U.S. Passport</td>
<td>Family Assistance (FA),* Medical Assistance (MA),&lt;sup&gt;4&lt;/sup&gt; Home</td>
</tr>
<tr>
<td>• Court Records</td>
<td>Energy Assistance Program (HEAP) or Food Stamps (FS)</td>
</tr>
<tr>
<td>• Naturalization certificate</td>
<td>• Documents from the United States Citizen and Immigration Services (USCIS)</td>
</tr>
<tr>
<td></td>
<td>• Court Records</td>
</tr>
</tbody>
</table>

Please see Appendix B of your Eligibility Manual for Child Welfare Programs for a complete list of acceptable USCIS documents.

*You cannot rely on an individual’s receipt of Safety Net Assistance as documentation of qualified immigrant status, as there are additional groups of immigrants who qualify for Safety Net which is a State program.

<sup>3</sup> See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

<sup>4</sup> Medicaid Exception: State and local Medicaid eligibility for otherwise eligible immigrants is not dependent on whether the immigrant is a qualified immigrant or non-qualified immigrant or the date on which the immigrant entered the U.S. as outlined in PRWORA. State and local Medicaid coverage cannot be denied if an otherwise eligible immigrant is permanently residing in the U.S. under Color or Law (PRUCOL) or is a lawfully admitted permanent resident. Also, federally funded Medicaid may be granted to otherwise eligible undocumented immigrants for emergency services only. Pregnant women are not required to document citizenship or immigration status in order to be eligible for Medicaid. These individuals can be identified on upstate WMS by category codes: 38 (Alien FP-Emergency Only); 37 (Alien FNP-Eligible MA-Does Not Meet PRWORA); and 76 (Legal Aliens-Eligible MA-Does Not Meet PRWORA). On downstate WMS, the individuals are identified by alien code E (Undocumented Aliens-Emergency MA Only) or State/federal charge codes: 60 (TANF Ineligible Alien) and 67 (Qualified Alien in the Five Year Ban for Medicaid/PRUCOL).
Requirement 3: Legal Authority

When we say “Legal Authority,” we’re talking about care and custody or custody and guardianship with the Commissioner of the local Department of Social Services (LDSS)/Administration for Children Services (ACS).

The eligibility rule for “legal authority” is that all foster care placements require that legal custody (care and custody or custody and guardianship) be awarded to the Commissioner of the LDSS/ACS. Court documents (court order or court transcript) must indicate whether the child’s legal custody is with the Commissioner of the LDSS/ACS.

Requirements about court orders involving specific placements made by the court that affect eligibility for Title IV-E are addressed in 01-OCFS-LCM-09. The LCM notes, in part, “Title IV-E requires, as a condition of eligibility, that a child’s placement and care responsibility be vested either with the State agency, or another public agency with which the State has an agreement.” Federal case plan regulations and related federal policy provide that Title IV-E reimbursement is not available when a court orders a placement with a specific foster care provider without consideration of the Agency's recommendation regarding placement. This does not mean that the court must always concur with the Agency's recommendation in order for the child to be eligible for Title IV-E foster care payments. As long as the court hears the relevant testimony and/or receives a written report and works with all parties, including the agency with placement and care responsibility, to make appropriate placement decisions, payments will not be disallowed. The federal prohibition also does not apply to situations where the court merely names the child's placement in the court order as an endorsement or approval of the Agency's placement choice.

In response to the federal Adoption and Safe Families Act, the Office of Court Administration (OCA) amended the Uniform Rules of the Family Court, effective January 31, 2001. OCA court orders require that where the court order directs the placement of an adjudicated PINS or JD with a specific foster care provider, the order must also include language specifying that the court considered the Commissioner’s position regarding the child’s placement. (See 01-OCFS-LCM-09 on the OCFS Website for details).

For children whose care and custody have been placed voluntarily with LDSS/ACS, there must be a Voluntary Placement Agreement signed by the parent(s) or legally appointed guardian(s) and the social services district. If the child remains in foster care for more than 180 days, the court must determine within 180 days of the child’s placement in foster care that continued placement is in the best interests of the child. Otherwise, Title IV-E eligibility ends at the 180th day.\(^5\)

\(^5\) Legal guardians are appointed by court order and so designated. Persons awarded care and custody or legal custody are not legal guardians.

\(^6\) See Re-determination of Title IV-E eligibility section for details.
A Voluntary Placement Agreement signed by a person other than a parent or guardian of the child is not Title IV-E compliant nor is the placement eligible for Title IV-E reimbursement.

So to help you, the question on the Checklist/Automated Eligibility Worksheet is asking a number of things:

- Was removal from the home of a parent or other specified relative?
- Did it result from a court order? If so, what was the type of order? Does the placement order transfer care and custody or custody and guardianship to the Commissioner of the LDSS or ACS? 
- Did it result from a Voluntary Placement Agreement? If so, was the Agreement signed by the child’s parents or a legally appointed guardian pursuant to SSL 384-a that gives care and custody to the Commissioner of the LDSS/ACS?

Acceptable Documentation

The acceptable documentation for legal authority is...

For court placed children:

- A court order (or court transcript) that places the child in the care and custody or the custody and guardianship of the Commissioner of the LDSS/ACS.
- New York State law provides that court orders placing a child into foster care pursuant to Article 10 (abuse/neglect) or Article 10-C (destitute child) of the FCA and court orders approving a Voluntary Placement Agreement must contain a date certain for the initial permanency hearing. This continues legal authority until a subsequent order is issued by the court under Article 10A of the FCA.

Please note the following:

- When determining the date of the court order use the hearing date located in the upper right hand corner of the court order, or if that is not so indicated, the date the order was signed by the judge.
- The federal Administration for Children and Families (ACF) prohibits the use of “nunc pro tunc” (meaning “now for then”) court orders that change the substance of a prior judicial determination or constitute a judicial determination not previously made to support Title IV-E eligibility, (i.e., a court order that grants the Commissioner legal authority prior to the placement/hearing date).

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7See 12-OCFS-ADM-08 for details regarding the destitute child.
Acceptable Documentation (continued)
The acceptable documentation for legal authority is...

For children who are voluntarily placed:
- Voluntary Placement Agreement signed by the parent(s) or legally appointed guardian(s)\(^8\) and the authorized social services representative is good for the first 180 days.

- If the child remains in foster care for more than 180 days, a Voluntary Placement approved by Court Order (SSL-358-a) indicating that care and custody or custody and guardianship continues to be awarded to the Commissioner of the LDSS/ACS.\(^9\)

- If other than the parent signs the Voluntary Placement Agreement, a court order (letters of guardianship) documenting that the person signing is the legal guardian.

- New York law provides that court orders placing a child into foster care pursuant to Article 10 (abuse/neglect), or Article 10-C (destitute child)\(^10\) of the FCA and court orders approving a Voluntary Placement Agreement must contain a date certain for the initial permanency hearing. This continues legal authority until a subsequent order is issued by the court under Article 10-A of the FCA.

\(^8\) Legal guardians are appointed by court order and so designated.Persons awarded care and custody or legal custody are not legal guardians.

\(^9\) See Re-determination of Title IV-E Eligibility section for details.

\(^10\) See 12-OCFS-ADM-08 for details regarding the destitute child.
Requirement 4: Contrary to the Welfare/Best Interests

When we say “contrary to the welfare” or “best interests” we’re talking about continuation in the home is contrary to the welfare of the child or that removal is in the best interests of the child or the removal is necessary to prevent imminent risk.

The eligibility rule for “contrary to the welfare/best interests” is that for children placed in foster care by court order under Article 3 (JD: Juvenile Delinquent), 7 (PINS: Person in Need of Supervision), 10 (abuse/neglect), or Article 10-C (destitute child)\(^1\) of the FCA, or Social Services Law (SSL) 358-a (approval of voluntary surrender):

- There must be an explicit case-specific judicial determination in the initial removal order (which includes any detention or remand order issued by the court resulting in the child’s removal) indicating that continuation in the home would be contrary to the welfare of the child or that removal is in the best interests of the child or that removal of the child is necessary to prevent imminent risk.

- A copy of the detention order must be obtained to document the “contrary to the welfare/best interests” determination for children placed into detention prior to placement into foster care. The court documents must demonstrate the basis for the court’s determination.

- For children removed from the home of a parent and placed in the direct legal custody of a relative prior to placement into foster care, it is this second removal giving the LDSS/ACS custody that the court applies the “contrary to the welfare/best interests” determination and the home for which AFDC financial eligibility must be made. Since the first order places the child into the direct legal custody of the relative, it is not applicable to the Title IV-E foster care eligibility determination.

- A court order approving a placement under SSL 358-a made when a voluntary surrender agreement pursuant to SSL 384 is completed, can be considered a court-ordered placement for Title IV-E purposes. (Because a voluntary surrender for adoption agreement is not a voluntary placement agreement as defined by federal law, a surrender does not by itself constitute a basis for initial Title IV-E eligibility—a judicial determination of contrary to the welfare/best interests is still required.)

- The court order must show that the “contrary to the welfare/best interests” determination was made on a case-specific basis. This may be met by reference in the court order to the documents or testimony upon which the court based its finding (i.e., the petition or testimony, etc.) or a brief statement of the facts upon which the court based its findings is also acceptable.

\(^1\) See 12-OCFS-ADM-08 for details regarding the destitute child.
Failure to secure such a determination renders the case ineligible for Title IV-E for the duration of the foster care episode.

**Coincide Rule:**

Once a court order is issued with a judicial determination that remaining in the home is contrary to the child’s welfare, or that removal is in the best interests of the child, in order to qualify for Title IV-E, the LDSS/ACS must actually remove the child at that time and place the child in foster care. Section 472(a)(2) of the Social Security Act predicates a child’s receipt of Title IV-E funds on the child’s removal from home as a result of either a Voluntary Placement Agreement or a judicial determination that to remain at home is contrary to the child’s welfare or that removal is in the best interests of the child.

The judicial determination that results in the child’s removal must coincide with (occur at the same time as) the Agency’s action to physically or constructively remove the child unless the court order specifies an alternative time frame for removal as allowed for in the federal Departmental Appeals Board (DAB) decision #2017. (See the Living with a Specified Relative requirement section for definitions of “physical” and “constructive” removal.)

If a court makes a judicial determination that it is contrary to the child’s welfare to remain at home or that removal is in the best interests of the child (without specifying an alternative time frame) and the child does in fact, remain at home and no removal occurs (absent a court order authorizing the child to remain at home), the requirement for removal is not met and the child is ineligible for Title IV-E for the duration of the foster care episode. If the child’s safety is not at risk and a LDSS/ACS chooses to offer support services to the family in-home to prevent having to remove the child, it should do so. However, the LDSS/ACS cannot issue “blanket” removal orders in an attempt to guarantee Title IV-E eligibility in the event that the child has to be removed from the home at some point in the future.

Example ➤ There have been situations where a hearing has been held but the child was not removed immediately because the LDSS/ACS needed time to find a foster care placement. These cases involved JD/PINS cases and there was no concern that the parents would harm the child. In such cases in order to satisfy the federal standards, there needs to be documentation (reflected in either a court order or court transcript) in the case record indicating that the court was aware of the need to delay the removal and it was approved.

So to help you, the question on the worksheet/checklist is asking:

- Does the initial court order sanctioning/directing removal of the child from the home of the child’s parent or other specified relative explicitly stipulate in the order that the court made a case specific finding that continuation in the home would be contrary to the welfare of the child or that removal was in the best interests of the child?
Acceptable Documentation

The acceptable documentation for contrary to the welfare/best interests is...

In most cases, removal and placement will occur at the same time. For these cases:
- The initial court order sanctioning removal (the detention or remand or disposition order, whichever is first under Article 3 [JD], 7 [PINS], 10 [abuse/neglect] or Article 10-C [destitute child] of the FCA, or SSL 358-a [voluntary surrender only]) must contain a case-specific determination that:
  - Continuation in the home would be contrary to the welfare of the child; or
  - Removal is in the best interests of the child; or
  - Removal is necessary to prevent imminent risk.

In the instances below, removal and placement may occur at different times. Therefore for these situations, the following documentation is required to verify the “contrary to the welfare/best interests:”
- For children placed in detention prior to placement into foster care, a copy of the detention order must be secured and reviewed to document the “contrary to the welfare/best interests” determination. The court documents must demonstrate the basis for the court’s determination.
- For children initially removed from the home of a parent and placed in the direct legal custody of a relative prior to placement into foster care, the second removal order that gives the Commissioner of the LDSS/ACS custody and contains a case specific determination that continuation in the home of the relative is contrary to the welfare of the child or that removal is in the best interests of the child.

Please note the following:
- For eligibility purposes only: If the social services district has a reliable process in place in which the court orders and determinations in those orders are summarized on a separate document for the purpose of informing casework staff of court events, you may use the information in the summary in completing the Checklist. This summary material should be completed only by trained individuals who understand the contents of the court order, have reviewed it and understand the requirements of Title IV-E eligibility. In no event can the summary material be used to document eligibility for federal review purposes.

For Family Court Official Forms Master Index, access: [http://www.courts.state.ny.us/forms/familycourt/index.shtml](http://www.courts.state.ny.us/forms/familycourt/index.shtml)

To access the website for the Permanency Bill: [http://www.ocfs.state.ny.us/main/legal/legislation/permanency/](http://www.ocfs.state.ny.us/main/legal/legislation/permanency/)

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12 See 12-OCFS-ADM-08 for details regarding the destitute child.
Discuss the following:

1. What language must the court order contain for a case to meet the “Legal Authority” requirement?

2. What language must the court order contain for a case to meet the “Contrary to the Welfare/Best Interest” requirement?

3. What should you do if the court order does not contain this information? Is the case eligible for Title IV-E in these circumstances? Why?

4. What should you do if court orders continue to be missing this information?
Requirement 5: Reasonable Efforts to Prevent Removal
We’re now on page two of the Initial Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/
page three of the Automated Eligibility Worksheet. The eligibility rule for reasonable efforts is
that if the foster care placement was made by a court order:

- An explicit case specific judicial determination must have been made by the court
  within 60 days from the date the child was removed from the home of the child’s
  parents or other specified relative and indicated in the court order to the effect that
- The Agency made reasonable efforts to prevent removal, including a finding, where
  appropriate, that no efforts were reasonable or that reasonable efforts were not
  required due to statutorily specified circumstances.
- Failure to secure such a determination within the appropriate timeframe renders the
  case ineligible for Title IV-E for the duration of the foster care episode.

Although such a finding need not be in the initial court order sanctioning removal, it must be
reflected in a court determination made within 60 days of removal.

Acceptable Documentation

The acceptable documentation that verifies that the agency made reasonable efforts to prevent
the removal is...

- A court order which contains a brief statement of the facts upon which the court based its
  “reasonable efforts were made to prevent removal” finding is acceptable. Also acceptable
  is where the court makes a reasonable efforts finding and cross-references documentation,
  such as a petition or report, or testimony upon which the court based its finding.

- It is also acceptable, as part of a finding that reasonable efforts were made to prevent
  removal, for the court to find that “no efforts were reasonable.” A finding that no efforts
  are reasonable is not the same as finding that there are statutory circumstances whereby
  reasonable efforts are not required. It is important that the court order clearly reflects this
  distinction and contain a case specific determination of why in the particular case no efforts
  were reasonable. Such a finding may arise, for example, because of the imminent danger
to the child. In such a case, no efforts to prevent removal are reasonable. This is not the same
as a finding that reasonable efforts are not required and it is important that the two are
clearly distinguished in the court order.
Acceptable Documentation *(continued)*
The acceptable documentation that verifies that the agency made reasonable efforts to prevent the removal is...

- Also acceptable for Title IV-E purposes is where the court makes a finding that “reasonable efforts were not required.” Because such a finding may only be made in certain limited situations, the court order must reference the basis for the court’s finding which may only include:
  
  o Aggravated circumstances, as defined in section 1012(j) of the FCA (i.e., a child has been severely or repeatedly abused or a child has been found to have been abused within five years after being returned home from a foster care placement due to a neglect finding; an infant five days old or less has been abandoned or the parent(s) have stated under oath that they will not engage in services necessary to eliminate the risk of abuse or neglect and there are no barriers to engagement in services)
  
  o Previous Termination of Parental Rights (TPR)
  
  o Conviction for certain categories of felonies (See section 1039-b of the FCA)

- If the first court finding is “no reasonable efforts were made to prevent removal,” and it is within 60 days of removal, determine why this finding was made. Make sure it was not confused with:
  
  * A finding that reasonable efforts were not required or
  
  * A finding that no efforts are reasonable.

If it is curable, go back to the court and obtain the appropriate finding of reasonable efforts within 60 days of the removal of the child from his/her home, as explained above.

Please note that a court order indicating that reasonable efforts were not made even if it cross references documentation or contains a narrative on the basis of the court’s finding does not meet the reasonable efforts requirement.

For Family Court Official Forms Master Index, access:
http://www.courts.state.ny.us/forms/familycourt/index.shtml
Requirement 6: Living with a Specified Relative

Look at this question on the Initial Title IV-E Foster Child Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Worksheet. (See Appendix B of the Eligibility Manual for Child Welfare Programs for specific details on who is considered a specified relative. Please note that “godparents” who have no other relationship to the child are not included; also excluded are “fictive” kin.)

The eligibility rule is that the child must have been living in and removed from the home of a parent or a specified relative within the fifth degree (see Determining a Specified Relative handout) in the month of removal, or in any of the six months before the month, that the court petition or the order to show cause, seeking the child’s removal from the home was filed or the Voluntary Placement Agreement was signed.

Note: The child is considered to have been living with and removed from the home of the specified relative who is the basis of judicial removal or who enters into the voluntary agreement—the home from which the court proceedings are initiated. Typically, this is the home of the individual who is the subject of the “contrary to the welfare” judicial determination or the home of the person who signed the Voluntary Placement Agreement.

Example: On January 1, 2012, a child is removed from the mother pursuant to an Article 10 (abuse/neglect) of the FCA and legal custody is transferred to the grandmother (direct placement). On January 2, 2013, the grandmother informs the LDSS/ACS that she can no longer care for the child. The LDSS/ACS petitions the Family Court for a modification of the January 1, 2012 court order. The Family Court modifies the Article 10 order and the Commissioner of the LDSS/ACS is given legal custody of the child. The child is physically removed from the grandmother and placed in a certified or approved foster home. The grandmother is considered the specified relative because the child lived with her (the grandmother) within the last six months. The second removal is the relevant date for Title IV-E purposes. In this case, the contrary to the welfare/best interests and reasonable efforts findings would have to apply to the grandmother for the case to be Title IV-E eligible. The AFDC household would be the grandmother’s not the mother’s for purpose of financial eligibility.

NOTES
Removal Circumstances

- **Removal Home** = The removal home is considered by the federal Administration for Children and Families (ACF) to be the home of the parent or the specified relative with whom the child lived at the time of removal. (See “Coincide Rule” under the *Contrary to the Welfare/Best Interests* section.)

- **Defined Period** = The defined time period for this requirement is “in the month, or in any of the six months before the month that the court petition or the order to show cause, seeking the child’s removal from the home was filed or the Voluntary Placement Agreement was signed.”

- **Physical Removal** = If at the time of removal, a child is living with the parent or other specified relative and the child is being physically removed from this home; this is the home to which the court applies the “contrary to the welfare/best interests” judicial determination and the home in which financial eligibility for AFDC must be potentially met. Historically, this was the only type of removal that was allowed for Title IV-E eligibility purposes.

- **Constructive Removal** = Constructive removal is where there is no physical removal; instead, there is a legal transfer (by court order or Voluntary Placement Agreement) of care and custody to the Commissioner of the LDSS/ACS. Constructive removal usually applies when a child remains with a relative who does not have legal custody and now becomes the foster parent. The child is not physically removed from the relative and legal custody is constructively removed from the parent who had legal custody prior to the removal. See *Example 2 - Constructive Removal* under the *Child Meets Requirement* Chart and *Example 1* under the *Child Does Not Meet Requirement* Chart.

*2013 Legal custody removed from living w/ specified relative requirement.*
Living with a Specified Relative - Examples:

<table>
<thead>
<tr>
<th>Child Meets Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Example 1 - Physical Removal:</strong> Based on Child Protective Services (CPS) investigation findings, the LDSS/ACS petitions the court seeking the child’s removal from the home of the mother. The child is physically removed from the mother’s home due to an Article 10 (abuse/neglect) of the FCA. The child enters foster care on the same day directly from the mother’s home. The child meets the requirement as s/he lived with the mother within the defined period (in the month of removal).</td>
</tr>
<tr>
<td><strong>Example 2 - Physical Removal:</strong> The child is born exhibiting symptoms of drug/alcohol withdrawal. The hospital makes a report to the State Central Register (SCR) alleging child maltreatment. Based on information developed pursuant to the Child Protective Services (CPS) investigation, the child is placed in foster care 10 days later. The child enters foster care directly from the hospital. Therefore, within the defined time period (less than six months), the child was living with a specified relative (the mother) so the child meets this Title IV-E requirement. (A newborn is considered to have been living in the home of his/her mother during the period of hospitalization or incarceration, regardless of the length of this stay.)</td>
</tr>
</tbody>
</table>

Please Note the following: An otherwise eligible child born to a woman who is a prison inmate or a patient in a hospital, and deprived of parental support and care would be eligible for Title IV-E Foster Care Program if removed from the “home of a relative” and placed in foster care in accordance with section 472 of the Social Security Act. This is true when the child is placed in foster care awaiting the mother’s release or when parental rights are terminated directly after birth. The inability of the child to return to the mother during her prisoner or patient status (or for any other reason) has no bearing on the child’s eligibility for Title IV-E Foster Care.

Eligibility for Title IV-E Foster Care maintenance payments program as defined in section 472(a) of the Social Security Act stipulates that a State shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) if among other things, the child was AFDC eligible in the “home” of the specified relative from whom the child was legally removed.

The child born to a mother who was a hospital patient or a prison inmate would be considered to be living with the mother at the time of birth and if placed in foster care would be removed from the home of the relative (the mother) in accordance with section 472(a). The definition of “home” in 45 CFR 233.90(c)(1)(v)(B) is applicable to hospital or prison setting.

**Example 3 - Physical Removal:** The child is left by the mother with the child’s grandmother. The grandmother is the caregiver, but only has physical custody. The grandmother never was awarded legal custody of the child by the court. The child resides with the grandmother for one year. At the end of the one year period, a neglect petition is filed against the grandmother by the LDSS/ACS that leads to a court order physically removing the child from the home of the grandmother and placing the child into the care and custody of the LDSS/ACS. In this case, the best interests and reasonable efforts findings are against the grandmother. The AFDC household would be the grandmother’s for purposed of financial eligibility.
Living with a Specified Relative - Examples: (continued)

### Example 4 - Physical Removal

The child is removed from the home of a parent and placed in the direct legal custody of a relative prior to placement into foster care. A year later, the child is removed from the relative who had direct legal custody. The LDSS/ACS petitions the court within six months of the date the child lived with the relative. The LDSS/ACS removes the child from the relative’s home and places the child in a certified or approved foster care home. The child meets the requirement for Title IV-E since s/he lived with a relative within six months of the date the LDSS/ACS petitioned the court and was physically removed from that relative’s home. In this case, the contrary to the welfare/best interests and reasonable efforts court findings must apply to the relative who had direct legal custody of the child. The AFDC household would be the relative’s and not the parent’s for purposes of financial eligibility.

### Example 1 - Constructive Removal

The child lived with the mother and grandmother; the mother leaves the home. The grandmother contacts the LDSS/ACS four months later and the LDSS/ACS petitions the court within six months of the date the child lived with the mother in the home. The LDSS/ACS approves the grandmother’s home as a foster family home and the child continues to reside in that home in foster care status. The child meets this Title IV-E requirement (living with a specified relative) since s/he lived with the parent within six months of the LDSS/ACS petition to the court and was constructively removed from the parent’s custody (i.e., there was a paper removal of the custody). In this case, the contrary to the welfare/best interests and reasonable efforts findings must apply to the mother. The AFDC household would be the mother’s not the grandmother’s.

### Example 2 - Constructive Removal

The child lived, for less than six months prior to the LDSS/ACS petition to the court for removal of the child, with a caretaker who does not have legal custody of the child. The LDSS/ACS certifies or approves that home as a foster home and the child continues to reside in that home in foster care status. The child meets this Title IV-E foster care requirement because s/he lived with the parent within six months of the LDSS/ACS petition to the court, and was constructively removed from the parent’s custody (i.e., there was a paper removal of custody).

### NOTES

2013 Legal custody removed from living w/ specified relative requirement.
Living with a Specified Relative Examples: (continued)

<table>
<thead>
<tr>
<th>Example #1:</th>
<th>The child lived with a related or non-related caretaker for more than six months prior to the LDSS/ACS petition to the court. The LDSS/ACS certifies or approves the home as a foster family home and the child remains in that home in foster care status. The child is ineligible for Title IV-E Foster Care because s/he had not lived with the parent nor was s/he physically removed from the home of a specified relative within six months of the LDSS/ACS petition to the court. The constructive removal does not apply to this situation because it had been more than six months since the child lived with the parent.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example #2:</td>
<td>The child lives with a legal guardian who is not a specified relative for six months prior to the LDSS/ACS petition to the court. The child is physically removed from the non-related legal guardian and placed in a different home which is a certified or approved foster home. The child does not meet this requirement because section 472(a)(3)(A) of the Social Security Act indicates among other things, that a child must be living with and removed from the home of a specified relative at the initiation of court proceedings.</td>
</tr>
</tbody>
</table>

**Acceptable Documentation**

The acceptable documentation to verify that the child was living with a specified relative is...

- Non-services WMS Clearance printout showing case composition and that the child was an active member in that case at the time of removal (Upstate only).
- Court petition indicating that the child had been living with a specified relative in the month of removal or in any of the six months before the month that the court petition or order to show cause, seeking the child’s removal from the home was filed, or the date the Voluntary Placement Agreement was signed.
- FASP/Progress notes indicate the child had been living with a specified relative in the month of removal or in any of the six months before the month that the court petition or order to show cause, seeking the child’s removal from the home was filed, or the date the Voluntary Placement Agreement was signed.
- FASP/Progress notes indicate the child had been living with a specified relative who is the representative payee for the child’s case in the month of removal or in any of the six months before the month that the court petition or order to show cause, seeking the child’s removal from the home was filed, or the date the Voluntary Placement Agreement was signed.
Santana Family Case (Removal)

Two children: Vanna age 3 years and Hector age 14 months were removed from their parents’ household on June 30, 2012. Reason: Court order under FCA Article 10 (abuse/neglect).

On July 2, 2012 the children were temporarily placed with their maternal grandmother who agreed to keep the children until a more permanent placement is found. She claims she is too elderly and too infirmed to care for such young children for a long period of time.

The entire family is in receipt of Family Assistance. At the time of removal, Alfredo, the 24 year old biological father, had been sanctioned from the Family Assistance case for non-compliance with job training requirements. However, Bonnie, the 23 year old biological mother, was receiving Family Assistance for the children. She is four months pregnant with her third child. Alfredo has an alcohol problem which caused his being fired from his last job.

On July 8, 2012, the children are removed from the grandmother’s home and placed with non-related foster parents, Anna and Jose Martinez.

In the case record are the following documents:

- Birth certificates for each of the children
- Court order indicating:
  - Legal custody was awarded to the Commissioner of the Local DSS
  - Continuation in the home would be contrary to the welfare/”best interest” of the child and the basis for this determination.
  - Details of the circumstances surrounding the removal are spelled out in the court order
- Medical verification of Bonnie’s pregnancy

Q. Does this case meet the “Living with Specified Relative” criteria? Explain.

R.
Requirement #7: Parental Deprivation
The next question deals with parental deprivation in the month of removal and based on the home of the relative who had legal custody of the child. This requirement is part of the Aid to Families with Dependent Children (AFDC) eligibility process and based on the home of the relative who has legal custody.

The eligibility rule is that during the month of removal (use the date of the court petition leading to the child’s removal from the home or the Voluntary Placement Agreement signed by all parties), the child must be deprived of parental support and care due to one or more of the following reasons:

- There was an absent parent from the home of removal at the time of removal;
- At least one of the parents had a physical or mental incapacity at the time of removal;
- The parent (principal wage earner) is unemployed or underemployed at time of removal (the State Plan for Title IV-E defines the unemployed/underemployed parent deprivation requirement as having been met in cases where the income of the parent(s) is below the eligibility level for Medical Assistance. Any two parent household, which meets the medically needy income and resource provisions and which has identified one of the two parents as the principal wage earner, can be categorically eligible for AFDC-U. By definition, the income threshold for public assistance (AFDC) is below the Medical Assistance level);
- One or both parents are deceased at time of removal.

Acceptable Documentation
The acceptable documentation to verify parental deprivation is...

Absence of parent from the home
- Referral to the Child Support Enforcement Unit indicating that at least one of the parents is absent from the removal home at the time of removal
- Court petition indicates at least one of the parents was absent from the removal home
- Official/court documentation verifying a legal separation or imprisonment
- FASP/Progress notes/Application for Services indicates that at least one parent is absent from the removal home at the time of removal

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13 AFDC-U: Aid to Families with Dependent Children-Unemployed/Underemployed
Acceptable Documentation (continued)
The acceptable documentation to verify parental deprivation is...

Incapacity of parent (physical or mental)
- State Data Exchange (SDX) screen prints indicating that at least one parent is in receipt of SSI
- Internal Aged/Disabled (A/D) unit information verifies that at least one parent is incapacitated
- Medical, mental health, treatment report containing diagnosis and relationship of diagnosis to limited parental functioning or ability to earn income for at least one parent
- Award letter verifying receipt of some form of disability income such as Supplemental Security Income (SSI), Social Security Disability (SSD), Workers’ Compensation (WC), New York State Disability (NYSD) or Veterans’ Benefits (VB) for one of the parents
- FASP/Progress notes indicate caseworker observed obvious physical handicap for at least one parent at time of removal

Unemployed/Underemployed parent
- Non-services WMS screen indicating that the family is in receipt of Temporary Assistance (TA) (Family Assistance [FA] or Safety Net [SN]) or Medicaid (MA) during the month of removal
- Resource File Integration (RFI)/CINTRAK report
- Award letter from the Department of Labor indicating receipt of Unemployment Insurance Benefits (UIB) or copy of the UIB check
- Wage stub or other proof of income indicating that the income of the parent is below the medically needy level
- Probation report or pre-sentencing report
- FASP/Progress notes documenting consistent information regarding the unemployment or underemployment of the parent(s)

Death of a parent
- Death certificate
- Award letter indicating receipt of Survivors’ Benefits or copy of Survivors’ Benefit check
- Other legal document indicating parent is deceased such as court petitions or a court order
- Legal documentation indicating there is a court appointed guardian or a legal custodian due to death of the parent(s)
- FASP/Progress notes that substantiate a death certificate was seen by the caseworker
1. Refer back to the Santana Removal Family Case.

2. Which of the parental deprivation reasons (if any) do Hector and Vanna in the Santana Family Case meet?

3. Explain:
Requirement #8: AFDC Financial Eligibility
This is the last of the eight eligibility requirements which must be documented. It deals with the child’s financial status in the month the removal petition was filed or the Voluntary Placement Agreement was signed.

The **eligibility rule** is that the child must have been financially eligible for Aid to Families with Dependent Children (AFDC) based on the program rules in effect on July 16, 1996 (commonly referred to as the “look back date”) and the family’s income and resources in the removal month. The removal month is the month that the Voluntary Placement Agreement was signed or initiation of court proceedings (a court petition was filed or a court order was issued, whichever comes first) leading to the removal of the child.

The child must be potentially eligible for AFDC in the home to which the court applied the contrary to the welfare/best interests and reasonable efforts to prevent removal judicial determinations, which is also the home from which the child was physically or constructively removed. The *Automated Eligibility Worksheet* automatically calculates this information based on the data entered. (See *Living with a Specified Relative* requirement section for definition of “physical” and “constructive” removal.)

### Whose Income Counts?

- Mother
- Father
- Step-parent
- Adoptive parent

### Whose Income Does Not Count?

- Alleged or putative father
- Grandparent / great-grandparent
- Aunt / uncle
- Legal custodian / guardian
- Cousin / other family member
- Unrelated household member
- Income of sibling[^14]

[^14]: Income of siblings is not counted in the Title IV-E budget calculation. If the sibling is under age 18 years, they are counted in the household count and if the sibling is age 18 and older then the sibling is not counted for Title IV-E eligibility purposes.
### What Income Counts?

Countable income includes:
- Wages / salary
- Tips from work
- Self-employment income
- Child support payments received
- Alimony received
- Interest payments
- Any other recurring income

### What Income Does Not Count?

Income that is not counted includes:
- Temporary Assistance (Family Assistance & / or Safety Net)
- Food Stamps
- Earned income of minor child who is a full time student
- Supplemental Security Income (SSI)
- Adoption subsidy/foster boarding home payments

The family’s resources may include bank accounts, cars, stocks, etc. and may not exceed $10,000.

⚠️ **Note:** In any case where the child is an immigrant disqualified under section 245A(h) or 210(f) of the Federal Immigration and Nationality Act for receiving aid under New York State’s approved Title IV-A State Plan in or for the month in which the Voluntary Placement Agreement was entered into or the court proceedings leading to placement were initiated, the child is considered to satisfy the requirement for AFDC eligibility with respect to that month, if the child would have satisfied such requirements but for the disqualification.
Acceptable Documentation
The source of the parents,’ step-parents’ or adoptive parents’ income at removal will determine the required documentation. The acceptable documentation that verifies the parents’ income for AFDC financial eligibility is the AFDC scratchpad budget with a “look back date” of July 16, 1996/Automated Eligibility Worksheet and the supporting income documentation such as:

<table>
<thead>
<tr>
<th>Unearned Income</th>
<th></th>
</tr>
</thead>
</table>
| Temporary Assistance (TA)/Medical Assistance (MA)/Food Stamps (FS)/Supplemental Security Income (SSI)/Social Security Disability (SSD) | • Copy of the WMS clearance (and budget summary) indicating the family was in receipt of TA, MA, FS or SSI on the month the:  
  o Voluntary Placement Agreement was signed or  
  o Court proceedings leading to the removal of the child were initiated  
• State Data Exchange (SDX) screen print indicating receipt of SSI  
• Current award letter from the Social Security Administration (SSA) indicating amount of SSI or SSD or copy of the SSI/SSD check |
| Child Support/Alimony | • Document from the Office of Child Support Enforcement indicating payments/receipt of child support  
• Statement from Family Court indicating amount of alimony/child support received  
• Statement from person paying support/alimony  
• Cancelled support/alimony check |
| Unemployment Insurance Benefits (UIB) | • Resource Integrated File (RFI/CINTRAK) Report  
• WMS report indicating receipt of UIB  
• Department of Labor (DOL) screen with UIB information / work history  
• Current award letter from the Department of Labor indicating amount and recipient of UIB  
• Current UIB benefit check  
• Official correspondence from the DOL |
## Acceptable Documentation (continued)

The source of the parents’, ‘step-parents’ or adoptive parents’ income at removal will determine the required documentation. The acceptable documentation that verifies the parents’ income for AFDC financial eligibility is the AFDC scratchpad budget with a “look back date” of July 16, 1996/Automated Eligibility Worksheet and the supporting income documentation such as:

<table>
<thead>
<tr>
<th>Unearned Income (continued)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Veterans (VA) Benefits</strong></td>
</tr>
<tr>
<td>• Current award letter from the Veterans Administration indicating amount and recipient of VA benefits</td>
</tr>
<tr>
<td>• Current Veterans Benefit check</td>
</tr>
<tr>
<td>• Official correspondence from the Veterans Administration</td>
</tr>
</tbody>
</table>

| **Interest Payments**                        |
| • Bank statements                            |

<table>
<thead>
<tr>
<th><strong>Earned Income</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Wages/salary/tips from work</strong></td>
</tr>
<tr>
<td>• RFI/CINTRAK Report</td>
</tr>
<tr>
<td>• Current wage stub</td>
</tr>
<tr>
<td>• Pay envelopes</td>
</tr>
<tr>
<td>• Employer letter/contact with employer</td>
</tr>
<tr>
<td>• Letter from VA indicating receipt of Servicemen’s Allotment if parent is on active military duty</td>
</tr>
</tbody>
</table>

| **Self-employment**                          |
| • Business records                           |
| • Tax records                                |

The documented countable income from one or more of the sources indicated above applied to a WMS scratchpad budget with a “Look Back Date” of July 16, 1996 is what will determine AFDC eligibility.

- The scratchpad WMS Automated Budget Eligibility Logic (ABEL) uses the July 1996 look back date to tally the household needs against the household income and calculates the deficit or surplus. (If you use the Automated Eligibility Worksheet, it will automatically calculate this for you.)
- The scratchpad budget/Automated Eligibility Worksheet must be printed and retained with a printed copy of the family’s proof of income as part of the Title IV-E case record that is maintained for eligibility purposes.
• If the family is found to be financially eligible for AFDC, the financial requirement of Title IV-E has been met

⚠️ Notes:
1. Family resources may not exceed $10,000 (includes ban accounts, cars, stocks, bonds, etc.)
2. If in the month the court proceedings (leading to the placement of the child) were initiated or the Voluntary Placement Agreement was signed, the child or parent of the child was in receipt of SSI, do **not** include the SSI person nor the SSI income in the budget calculation.

New! For questions regarding Title IV-E foster care eligibility, send an email to a Title IV-E expert at:

Title.IVE@ocfs.state.ny.us
Children in Receipt of SSI and Title IV-E Eligible

Comparison Budgeting

When assessing the benefits of Title IV-E for children in receipt of Supplemental Security Income (SSI) at the time of placement, keep in mind that the effect on foster care funding differs between the two programs. Although concurrent receipt of SSI and Title IV-E is allowed, the SSI benefit would be reduced dollar for dollar by the amount of the Title IV-E payment.

Title IV-E provides 56.2%\(^1\) federal reimbursement for all costs (room, board, allowable administrative expenses and clothing) other than social services and educational costs; the Supplemental Security Income (SSI) provides a fixed amount. Therefore, districts should consider the overall Title IV-E reimbursement benefit contrasted to the SSI that can be used to offset room and board costs. You must determine which program, Title IV-E or SSI, is most cost beneficial. As a general rule, whenever a child is in a group foster care program, Title IV-E will provide the greater reimbursement.

Refer to Appendix B in your Eligibility Manual for Child Welfare Programs for a chart of the most current SSI award levels.

\[^{1}\text{Percentage is subject to federal change.}\]

Note: If a child or parent is in receipt of SSI at the time of removal from the home, the AFDC budget calculation should not include the SSI recipient nor his/her SSI. This is known as the SSI “invisibility” rule. Families found to be financially eligible for AFDC meet the financial eligibility requirement for Title IV-E.
Decision Point ➔ WMS Instructions

Child is eligible...

If a child meets all eight of the above listed requirements and each is appropriately documented, the case is eligible\(^{16}\) for Title IV-E funding.

Note: Make appropriate entries in the associated child welfare systems to open the case, track case activities, authorize payment and check that appropriate program and administrative costs are reimbursed by the federal government. (These associated systems include CONNECTIONS, the Welfare Management System (WMS), the Child Care Review Service (CCRS) and the Benefit Issuance and Control System (BICS).)

\(^{16}\)The home in which the child is placed must be fully certified or approved or the facility licensed prior to making any Title IV-E claims. See Home Certification/Approval section following these pages.
You must continue to review all foster care cases for possible eligibility for Temporary Assistance to Needy Families-Emergency Assistance to Families (TANF-EAF) funding regardless of the Title IV-E eligibility determination results.

**Missing Documentation...**
If a child does not have all the appropriate documentation to verify all of the eight Title IV-E requirements when initially placed, Title IV-E eligibility should not be ruled out. In addition, TANF-EAF may be available if the case has been determined eligible for that funding. In instances where the Title IV-E eligibility remains under review because the required documentation is forthcoming, the case may be opened as a pending Title IV-E case which equates to FNP (federally non-participating).

Eligibility for Title IV-E may be established if and when it can be fully documented; at which time a retroactive entry in WMS must be made to reflect the change in category as appropriate. A retroactive claim entry in WMS may only go back for a period of two years.
Retroactive Claiming
Once the missing documentation to fully verify Title IV-E eligibility is submitted or if a case is being corrected because it was mistakenly found ineligible for Title IV-E:

(Detailed claiming instructions for reimbursement can be found in the New York State Fiscal Reference Manual)

Child is ineligible...
If the case cannot be fully documented for Title IV-E eligibility at the time of placement and the missing documentation is not forthcoming, the case is ineligible for Title IV-E funding. Continue to review the case for TANF-EAF funding.

For detailed WMS instructions regarding processing the Services case, contact OCFS-IT Customer Support at (800) 342-3727 or email ocfs.sm.conn_app@ocfs.state.ny.us
Medical Assistance Eligibility Decision...

Medicaid must be authorized in 12 month periods so WMS must be updated when the Title IV-E is re-determined.

REMEMBER:
Medicaid must be authorized for 12-month periods, so WMS must be updated whenever Title IV-E is re-determined.

Next Step:
After determining whether or not a foster child is eligible for Title IV-E funding (foster care maintenance and administrative costs only), continue to review the case to determine whether the case is also eligible for TANF-EAF. TANF-EAF funding may be used for care and maintenance for cases not eligible for Title IV-E, as well as tuition for foster children and social services which are not Title IV-E reimbursed.

17 Please note that Medical Assistance also extends to non-Title IV-E foster children as long as they are U.S. citizens or meet satisfactory immigration status.
Foster Home Certification/Approval

In addition to the child’s Title IV-E eligibility, the foster home in which the child is placed in New York State must be fully certified or approved according to New York State regulations. Title IV-E may only be claimed if the child is placed in one of these fully certified or approved homes. Certifications or approvals of foster homes must be entered in CONNECTIONS in FAD (Foster and Adoptive Home Development). If a child is placed out-of-state, the foster care home in which the child is placed must be certified, approved or licensed in accordance with the laws of the state the foster care home is located.

- Assistance related expenses such as clothing for Title IV-E eligible children residing in settings other than Title IV-E eligible foster homes are **not** eligible for Title IV-E reimbursement. TANF-EAF reimbursement may be available if the case has been determined eligible for that program.
- A foster home certified or approved on an emergency basis is **not** a fully certified or approved foster home and therefore, **not** eligible for Title IV-E until it is fully certified or approved.
- If the foster home is waiting for certification, or approval or licensure, the case can be pending Title IV-E. (See Retroactive Claiming in the previous page)
- Once the home is fully certified or approved, the case may be claimed as Title IV-E back to the date of full certification or approval. For the period claimed as Title IV-E (for all certified or approved homes), the case file **must** contain a copy of the following:
  - CONNECTIONS Certificate to Board Children or Approval Letter
  - The Criminal History Review for all household members age 18 and over (fingerprinting) results letter and the safety assessment where there was a result **other than** “no record”
  - The SCR database check results.
- If the results of the criminal history record check and/or the SCR data base check is that the applicant or a household member has a criminal history or an indicated SCR report(s):
  - Documentation in the CONNECTIONS Foster and Adoptive Home Development (FAD) record is required;
  - A safety assessment must be documented for criminal history records;

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18 See 08-OCFS-INF-04 for details regarding out-of-state foster home certification.
19 Mandatory disqualifiers include, foster parents (actual or prospective) convicted at anytime of a felony involving child abuse/neglect, spousal abuse, a crime against a child, including child pornography or a crime involving violence (i.e., rape, sexual assault or homicide, other than a crime involving a physical assault or battery). Foster parents (actual or prospective) convicted within five years of a felony for physical assault, battery or a drug-related offense.
- The appropriate field(s) in MED/CHRC and SCR Comments on the Household Member Detail tab must be completed that explains why the foster parent was appropriate for certification or approval despite the existence of these records for both a criminal history record and an indicated SCR report(s).

Notes:
- The foster home’s status as non-Title IV-E eligible does not affect the Title IV-E eligibility of the child. However, during the period s/he is placed in an ineligible foster home, Title IV-E reimbursement may not be claimed.
- Required placement/movement and legal activities must be recorded in CCRS to support the Automated Claiming System. See BICS-Services Manual for detailed instructions regarding CCRS entry.
- Congregate care facilities, including agency operating boarding homes, group homes and non-public institutions, as well as, facilities, operated by a public agency with a capacity of no more than 25 beds, must be licensed in order for Title IV-E to be claimed.

For further clarification regarding out-of-state placements, please refer to 08-OCFS-INF-04: Out of State Foster Care Homes Documentation of Licensure for Title IV-E Foster Care Eligibility.
Re-entry into Foster Care  
(Youth Age 18 and Over)

Program/Funding Implications:
Chapter 342 of the Laws of 2010 permits a former foster youth who exited foster care on a final discharge status at age 18, 19 or 20 to re-enter foster care under certain circumstances, provided the youth is under the age of 21. The law gives youth aging out of foster care the opportunity to re-enter foster care when no reasonable alternative to foster care exists and the youth has had a final discharge from care due to:

- A failure to consent to a continuation of placement: or
- Discharge at age 18 or older to permanency (returned home, went to a relative’s care, custody or guardianship, or was adopted) and that permanency arrangement has been disrupted or dissolved.

Chapter 342 applies to all categories of foster children including youth whose prior episode of care was initiated through a juvenile delinquency (JD) or person in need of supervision (PINS) proceeding under Article 3 or 7 of the Family Court Act, respectively, if such youth are otherwise eligible under Chapter 342. All provisions of Chapter 342 accordingly would apply to such youth who re-enter care, including the notice required when the youth leaves care due to failing to consent to a continuation of placement or being discharged to permanency.

Title IV-E reimbursement will be available for youth re-entering foster care after attaining the age of 18 if they meet the criteria on the Re-entry into Foster Care for Youth Age 18 and Over Eligibility Checklist (LDSS-4415 rev. 11/10).

The LDSS/ACS is required to provide notice to a youth who is aging out of foster care of his/her right to request that the LDSS/ACS petition the Family Court to return him/her to foster care, provided s/he is under age 21. In addition, the notice must inform the youth that s/he also may petition the court to return to foster care. The LDSS/ACS or youth petitioning the court must prove that no reasonable alternative to foster care exists.

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20 See 11-OCFS-ADM-02 for details regarding re-entry into foster care.
Notification Requirement
The LDSS/ACS is required to tell the youth and provide written notification to all youth who are aging out of foster care due to a failure to consent to a continuation of placement or discharge to permanency of their right to apply to re-enter foster care. The notice must inform the youth that s/he also may petition the court to return to foster care. In addition, the notice must:

- Advise the youth that the application to return to foster care must be done within 24 months of the youth’s first final discharge, provided the youth is under age 21;
- Inform the youth that re-entry into foster will only be available where the youth has no reasonable alternative to foster care and consents to enrollment in and attendance at an appropriate educational or vocational program, unless evidence is submitted that such enrollment or attendance is unnecessary or inappropriate, given the particular circumstances of the child; and
- Include the name and contact information of the youth’s attorney.

In addition to the above, the LDSS/ACS must document the date the notice was provided in the youth’s Transition Plan,21 or in the event of an unplanned discharge, in the case record. The LDSS/ACS must make every effort to provide notice to the youth in person. If this is not possible, the notice must be sent to the youth’s discharge address.

Required Preventive Services
The eligibility for preventive services of a youth requesting to re-enter care is the same as any other foster care youth under SSL section 409-a. The LDSS/ACS must provide preventive services to any youth requesting to re-enter foster care when providing the preventive services may avoid the youth returning to care. If a lack of adequate housing, for example, is a factor that will cause the re-entry of a youth into foster care, preventive services could include special cash grants in the form of rent subsidies, including rent arrears, or any other assistance, sufficient to obtain adequate housing. Chafee Independent Living Program funds are another option that can be used for making room and board payments.

The LDSS/ACS’ efforts must be sufficient to obtain a reasonable efforts order if the child should subsequently enter foster care. Such order is necessary to claim and be reimbursed under Title IV-E.

21 To access the latest Transition Plan, go to http://www.ocfs.state.ny.us/main/forms/foster_care
Former foster care youth are only eligible to return to foster care if the motion to the court is filed within 24 months of the date of the first final discharge. Preventive service providers should evaluate youth before they reach the 24-month mark to determine if preventive services are meeting the needs of the youth or if it is in the best interest of the child to petition the court to return the child to foster care.

**Documenting Court Proceedings**

The LDSS/ACS, or a former foster care youth, may make a motion to the Family Court for the youth to re-enter foster care. The court motion must be filed within 24 months from the date of the first final discharge that occurred on or after the youth’s 18th birthday providing the youth is under age 21. If the LDSS/ACS refuses to file a motion to return a youth to foster care, the youth has the right to file a motion with the court.

1. **The LDSS/ACS’ Motion to the Court**

   The LDSS/ACS affidavit must show:
   - The youth has no reasonable alternative to foster care;
   - The youth consents to enrollment in and attendance at an appropriate educational or vocational program, unless evidence is submitted that such enrollment or attendance is unnecessary or inappropriate, given the circumstances of the child;
   - Re-entry is in the “best interests” of the youth; and
   - The youth consents to the re-entry into foster care.

2. **Former Foster Care Youth Motion to the Court**

   An affidavit or other evidence provided to the court and the social services official must show:
   - The requirements outlined in the above three bullets are met; and
   - The LDSS/ACS consents to the re-entry of the youth, or if the LDSS/ACS refuses to consent to the re-entry of the youth and that refusal is unreasonable.
3. LDSS/ACS Refusal to Consent
The court can overrule the LDSS/ACS’ refusal to consent to allow the youth to re-enter care. If the LDSS/ACS refuses to consent, the court shall determine that the refusal is unreasonable if:

- The youth has no reasonable alternative to foster care;
- The youth consents to enrollment in and attendance at an appropriate educational or vocational program, unless the court finds a compelling reason that such enrollment or attendance is unnecessary or inappropriate; and
- Re-entry into foster care is in the “best interests” of the youth.

4. Temporary Order to Return a Youth to Foster Care
If at any time during the pendency of the court proceedings, the court finds a compelling reason that it is in the “best interests” of the youth to return the youth to the care of the LDSS/ACS, the court may issue a temporary order.

**Returning a Youth to Foster Care a Second Time**
The court may grant only two separate re-entries to foster care. If the court has previously granted a motion to return a youth to foster care, the court must meet the requirements outlined previously in Section 1 or 2 above under the Documenting Court Proceedings heading, and:

- Determined that there is a compelling reason to return the youth to care; and
- Considered the youth’s compliance with previous orders of the court, including the youth’s previous participation in an appropriate educational or vocational program.

**Title IV-E Foster Care Requirements**
When it is in the best interest of the youth, the youth being returned to foster care following an interruption of care should be placed with the foster care parents with whom the youth was last placed, even if the placement exceeds the capacity of the foster home [SSL Section 398.6(n)]. The county of origin is responsible for placing the youth, regardless of the county the youth currently residing in or was previously placed in.
This law requires that all regular foster care requirements that apply to youth under age 18 also apply to youth over age 18. This includes but is not limited to: making the necessary case work contacts with the child, parents or relatives and caretaker, providing comprehensive medical and health services, and making assessments for parental support.

The permanency requirements for former foster care youth re-entering care are the same as for all foster care youth. After granting the motion to return a youth to foster care, the court will set a date for a permanency hearing no later than 30 days after the hearing in which the motion was granted.

The Title IV-E Eligibility Determination
Completing the Re-entry into Foster Care for Youth Age 18 and Over Eligibility Checklist (LDSS-4415 rev. 11/10) is the first step in determining eligibility for youth ages 18, 19 and 20 re-entering foster care. Title IV-E may not be claimed until all eligibility requirements are satisfied.

Notes:
- No determination of TANF-EAF is to be made for any re-entry youth so that they are not at risk of using any portion of their five year time limit on temporary assistance.
- For youth re-entering foster care within six months of the previous episode, the contrary to the welfare/best interests and reasonable efforts findings from the initial placement order for that previous foster care episode will meet the criteria for the re-entry episode. To claim Title IV-E for a child who otherwise satisfies the other Title IV-E standards, the court order must be in place.
- The county of origin is responsible for payment if the child re-enters foster care regardless of the county the youth currently resides in or is placed in. If a youth returns to an agency requesting to re-enter foster care, the agency is required to notify the LDSS/ACS.
- Youth whose prior episode of care was initiated through a JD (Article 3 of the FCA) or PINS (Article 7 of the FCA) proceeding are able to re-enter foster care after reaching age 18 if otherwise eligible under Chapter 342. The petition and supporting documentation must be filed and the court’s order granted for such youth under Section 1091 of the FCA, as added by Chapter 342. Youth who are placed in the custody of OCFS including youth placed in voluntary agencies or OCFS facilities, are not eligible for re-entry under this law.

22 See 18 NYCRR 441.21, Casework Contacts.
23 See 18 NYCRR 441.22, Health and Medical Services.
24 See 18 NYCRR 422, Parental Support of Children Receiving Foster Care.
If you look at the checklist, you will see that there are six major Title IV-E requirements listed which must be documented for youth re-entering foster care.

Title IV-E may be claimed if and when it can be documented. Title IV-E may not be claimed until all eligibility requirements are satisfied!
Requirement #1: Age

The eligibility rule for the Title IV-E age requirement under Chapter 342 of the Laws of 2010, is that a child must be at least age 18 but less than age 21 and be re-entering foster care after a final previous discharge from foster care. If the child re-entering foster care is age 17 years or younger, please use the Initial Foster Care Eligibility Checklist (LDSS-4809 rev. 5/13)/Automated Eligibility Checklist.

Acceptable Documentation:

The acceptable documentation that verifies age is...

- Non-services WMS screen reflecting the child’s date of birth
- Birth certificate
- Baptismal certificate
- Hospital Records
- U.S. Passport
- Naturalization certificate
- Court records
- School records
- Family Assessment and Service Plan (FASP)/Progress notes that substantiate one of the above certificates was seen by the caseworker—should include the child’s name, date of birth, parents’ names and type of certificate or certificate number, if available

Requirement #2: Citizenship

The eligibility rule for this requirement is that a recipient of Title IV-E must be a citizen of the United States or a qualified immigrant as defined by the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

Citizenship or immigration status of any child in foster care must be verified regardless of whether Title IV-E Foster Care payments are made on their behalf. (See Appendix B of the Eligibility Manual for Child Welfare Programs for a complete list of United States Citizen and Immigration Services [USCIS] documents).

25 See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.
Acceptable Documentation:
The acceptable documentation that verifies citizenship/immigrant status is...

<table>
<thead>
<tr>
<th>U.S. Citizen</th>
<th>Qualified Immigrant</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Birth certificate</td>
<td>• WMS Case Composition screen showing child receives</td>
</tr>
<tr>
<td></td>
<td>Family Assistance (FA), Medical Assistance (MA),</td>
</tr>
<tr>
<td></td>
<td>Home Energy Assistance Program (HEAP) or Food Stamps (FS)</td>
</tr>
<tr>
<td></td>
<td>Documents from the United States Citizen and Immigration Services (USCIS)</td>
</tr>
<tr>
<td></td>
<td>• Court Records</td>
</tr>
</tbody>
</table>

See Appendix B of the Eligibility Manual for Child Welfare Programs for the Immigration Status List

**Notes:** You cannot rely on an individual’s receipt of Safety Net Assistance as documentation of qualified immigrant status, as there are additional groups of immigrants who can qualify for Safety Net, which is a State program.

All children in foster care except for non-qualified immigrants are categorically eligible for Medicaid and do not require a separate determination for Medicaid (MA) (Title XIX).

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26 See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

27 Medicaid Exception: State and local Medicaid eligibility for otherwise eligible immigrants is not dependent on whether the immigrant is a qualified immigrant or non-qualified immigrant or the date on which the immigrant entered the U.S. as outlined in PRWORA. State and local Medicaid coverage cannot be denied if an otherwise eligible immigrant is permanently residing in the U.S. under Color or Law (PRUCOL) or is a lawfully admitted permanent resident. Also, federally funded Medicaid may be granted to otherwise eligible undocumented immigrants for emergency services only. Pregnant women are not required to document citizenship or immigration status in order to be eligible for Medicaid. These individuals can be identified on upstate WMS by category codes: 38 (Alien FP-Emergency Only); 37 (Alien FNP-Eligible MA-Does Not Meet PRWORA); and 76 (Legal Aliens-Eligible MA-Does Not Meet PRWORA). On downstate WMS, the individuals are identified by alien code E ( Undocumented Aliens-Emergency MA Only) or State/federal charge codes: 60 (TANF Ineligible Alien) and 67 (Qualified Alien in the Five Year Ban for Medicaid/PRUCOL).
Requirement #3: Legal Authority

Court-ordered Re-entry into Foster Care

The eligibility rule for this requirement is that a child who has attained the age of 18 may only re-enter foster care on a court order that directs him/her back into foster care. Such order returns the child to the custody of the Commissioner of the LDSS or ACS.

Acceptable Documentation:
The acceptable documentation that verifies legal authority is ...
- A court order (or court transcript) that places the child in the care and custody or the custody and guardianship of the Commissioner of the LDSS/ACS

Requirement #4: Contrary to the Welfare/Best Interests

The court order sanctioning/directing the re-entry of the child into foster care must explicitly state that the court made a finding to the effect that continuation in the current living situation would be “contrary to the welfare” of the child or that re-entry into foster care was in the “best interests” of the child; or if the child is re-entering foster care within six months of final discharge from the previous episode of foster care there must be a “contrary to the welfare/best interests” finding issued by the court in that initial placement order.

Acceptable Documentation:
The acceptable documentation that verifies the contrary to the welfare/best interests is...
- A court order (or court transcript) of the court determination sanctioning re-entry into foster care that explicitly states it would be “contrary to the welfare” of the child to remain in the current living situation or it would be in the “best interests” of the child to return to foster care; or
- If the child is re-entering foster care within six months of final discharge from a previous foster care placement, a copy of the initial placement order issued by the court that contains the “contrary to the welfare/best interests” language.
Note: For eligibility purposes only:  If the LDSS/ACS has a reliable process in place in which the court orders and determinations in those orders are summarized on a separate document for the purpose of informing casework staff of court events, you may use the information in the summary in completing the Checklist. This summary material should be completed only by trained individuals who understand the contents of the court order, have reviewed it and understand the requirements of Title IV-E eligibility. In no event can the summary material be used to document eligibility for federal review purposes.

Requirement #5: Reasonable Efforts
The eligibility rule is that for a court order sanctioning/directing re-entry into foster care, there must be a case specific determination by the court expressly stipulated in the court order, and issued within 60 days from the date the child re-entered foster care, that the LDSS/ACS made “reasonable efforts” to prevent re-entry into foster care. This finding may reflect that the LDSS/ACS made “reasonable efforts” to meet the child’s need prior to re-entry into foster care or that, where appropriate, no efforts were reasonable; or if the child is re-entering foster care within six months of final discharge from the previous foster care episode, there must be a “reasonable efforts” finding issued by the court within 60 days from the date the child entered the previous foster care episode.

Trial Discharge
Trial discharge for youth between ages 18 and 21 may be extended at each scheduled permanency hearing, provided the youth consents to the extension. As in current regulation 18 NYCRR 430.12(f)(4) and the program instructions of the Administration for Children and Families ACYF-CB-PI-10-11 multiple trial discharges approved by the court are permitted consistent with the needs of the child.

Note:  If the child has been on a trial discharge status for more than six months and the court has not extended trial discharge status for the child, a new Title IV-E eligibility determination must be made upon re-entry into foster care.
Acceptable Documentation:
The acceptable documentation that verifies that the agency made reasonable efforts to prevent re-entry into foster care is...

- A court order (or court transcript) issued within 60 days of the child re-entering foster care that states that the Title IV-E Agency made “reasonable efforts” to prevent re-entry into foster care, or the Agency made “reasonable efforts” to meet the youth’s needs prior to a return to foster care or where appropriate, that no efforts were reasonable; or

- With regard to the previous episode of foster care, if the child is re-entering foster care within six months of final discharge, a copy of the original placement order issued by the court that contains the “reasonable efforts” language or a court order which contains a brief statement of the facts upon which the court based its “reasonable efforts were made to prevent removal” finding is acceptable. Also acceptable is where the court makes a reasonable efforts finding and cross-references documentation, such as a petition or report, or testimony upon which the court based its finding.

Requirement #6: AFDC Eligibility

AFDC Program Criteria
The eligibility rule is that a child/youth must have met the AFDC eligibility requirement per section 472(a)(3) of the Act at the time of removal from the home to be eligible for Title IV-E Foster Care. For a youth age 18 or older who is re-entering foster care after attaining age 18, consistent with the criteria above, AFDC eligibility is based on the youth without regard to the parents/legal guardians or others in the assistance unit in the home from which the youth was removed as a younger child (e.g., a child-only case).

Note: Based on guidance from the federal government where a youth re-enters foster care after the age of 18, the requirements for Parental Deprivation and Living with Specified Relative are deemed to have been met.

Acceptable Documentation:
The acceptable documentation that verifies the youth meets the AFDC requirement is...

- WMS screen printout
- ABEL Budget
- Pay stub for the child
For information regarding WMS and CCRS coding, please refer to the Guides and GIS messages posted at: http://ocfs.state.nyenet/it/GeneralResources/General_ResourcesDefault.asp on the OCFS Title IV-E Website.

For systems questions, please contact the AppHelp mailbox at: ocfs.sm.conn_app@ocfs.state.ny.us or call OCFS IT Operations at 1-800-342-3727

For questions regarding Title IV-E foster care eligibility, send an email to a Title IV-E expert at: Title.IVE@ocfs.state.ny.us
Federal and State regulations require that eligibility for Title IV-E assistance and services be re-evaluated (re-determined) on a regular basis. The process of re-evaluating eligibility and reauthorizing the case on WMS is known as “Re-determination.” Re-determination of cases found to be Title IV-E (foster care) eligible must occur at a minimum of every 12 months. It is recommended that a re-determination be completed on the foster child’s 18th birthday and annually until the child turns age 21.

Completing the Re-determination of Title IV-E Eligibility Checklist (Foster Care) (LDSS-4810 rev. 9/12) is the first step in re-determining eligibility for Title IV-E foster care. Complete this form for:

- Foster care cases determined eligible for Title IV-E and requiring a 12-month re-determination.
- Foster care cases for which Title IV-E has been suspended because of a lapse in legal authority or failure to secure a reasonable efforts determination on a 12 month basis as required by Title IV-E.
- Child turning age 18 and annually thereafter.

(See Appendix A of the Eligibility Manual for Child Welfare Programs for the most up-to-date Checklist)

Since a proper re-determination of Title IV-E eligibility depends on the outcome of the initial determination, always review the Initial Foster Child Eligibility Checklist/Automated Eligibility Worksheet as preparation for the re-determination review. During the review, make sure that all documentation for the initial determination is on file and take steps to obtain any missing documentation. Cases that are not fully documented cannot be continued as Title IV-E and other funding categories such as TANF-EAF must be pursued, authorized and claimed, if appropriate.

Let’s look at the Re-determination of Title IV-E Eligibility Checklist (rev. 9/12).

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28 New York State Law provides that court orders placing a child in foster care pursuant to Article 10 (abuse/neglect), or Article 10-C (destitute child) of the FCA and orders approving a Voluntary Placement Agreement must contain a date certain for the initial permanency hearing. This continues legal authority until a subsequent order is issued by the court under Article 10-A of the FCA.
Re-determination Requirements

There are three key eligibility requirements that must be reviewed for re-determination of Title IV-E. These are the items that are subject to change 12 months from initial determination so we must carefully review each item and check that appropriate documentation is on file.

Let’s look at each one of these items individually to see what the rules are and determine what the acceptable documentation is:

**Age Requirement**

The eligibility rule is that Title IV-E is limited to:

A. Children who are under age 18 and

B. Children who are age 18 or older but under age 21, consent to remain in foster care and meet one of the following criteria:
   - Is completing secondary education or a program leading to an equivalent credential; or
   - Is enrolled in an institution which provides post-secondary or vocational education; or

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29 On April 1, 2010, AFDC re-determination was eliminated. A child who has been determined AFDC eligible under Title IV-E at removal is considered to meet the AFDC need and deprivation requirements throughout the foster care episode regardless of subsequent changes to income, resources and parental deprivation.

30 See 10-OCFS-ADM-10, *Title IV-E Foster Care and Adoption to Age 21* and GIS 10-#006 for details.

31 A re-determination of Title IV-E eligibility must always be done when a child turns age 18, 19 and 20. The educational, vocational, employment or medical status of the child must be part of that review. For foster children who were eligible for Title IV-E and lost such eligibility prior to October 1, 2010, solely due to reaching age 18 (or age 19, as applicable), and remained continuously in foster care (same foster care episode) and are otherwise Title IV-E eligible, i.e., there is no break in legal authority, and the youth has not been on trial discharge for more than six months, Title IV-E eligibility is to be reinstated on October 1, 2010, provided however, that an updated re-determination is made and demonstrates that the youth remains eligible on all applicable factors, including an annual court order determination that reasonable efforts have been made to finalize the youth’s permanency plan.
Is participating in a program or activity designed to promote or remove barriers to employment; or

Is employed for at least 80 hours per month; or

Is incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated written or recorded information in the case plan of the child.

Title IV-E is limited to children under age 18 or if the child is age 18 or older but under age 21, consents to remain in foster care and continues to meet one of the educational, vocational, employment or medical criteria noted above. A re-determination of Title IV-E must always be done when a child turns age 18, 19 and 20. The educational, vocational, employment or medical status of the child must be part of that review.\(^{32}\)

<table>
<thead>
<tr>
<th>Age (under age 18)</th>
<th>Age (under age 18)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-services WMS screen reflecting the child’s date of birth</td>
<td>Court records</td>
</tr>
<tr>
<td>Birth certificate(^{34})</td>
<td>Family Assessment and Service Plan (FASP)/Progress notes substantiate that one of the above certificates was seen by the caseworker—should include the child’s name, date of birth, parents’ names and certificate number</td>
</tr>
<tr>
<td>Baptismal certificate</td>
<td>Hospital Records</td>
</tr>
<tr>
<td>U.S. Passport</td>
<td>U.S. Passport</td>
</tr>
<tr>
<td>Naturalization certificate</td>
<td>Naturalization certificate</td>
</tr>
</tbody>
</table>

Please check the eligibility case record as the documentation for this requirement should already be on file.

\(^{32}\) For foster children who were eligible for Title IV-E and lost such eligibility prior to October 1, 2010, solely due to reaching age 18 (or age 19, as applicable), and remained continuously in foster care (same foster care episode) and are otherwise Title IV-E eligible, i.e., there is no break in legal authority, and youth has not been on trial discharge for more than six months, Title IV-E eligibility is to be reinstated on October 1, 2010, provided however, that an updated re-determination is made and demonstrates that the youth remains eligible on all applicable factors, including an annual court order determination that reasonable efforts have been made to finalize the youth’s permanency plan.

\(^{33}\) See 10-OCFS-INF-10 for details regarding birth certificates from Puerto Rico.

\(^{34}\) Ibid.
### Acceptable Documentation (continued)

The acceptable documentation that will verify age is...

<table>
<thead>
<tr>
<th>Age 18 and older</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Completing secondary education or a program leading to an equivalent credential, e.g., a youth age 18 &amp; older is finishing high school or taking classes in preparation for a general equivalency diploma exam</td>
<td>• Name, location and type of school or program</td>
</tr>
<tr>
<td></td>
<td>• Grades</td>
</tr>
<tr>
<td></td>
<td>• Progress report</td>
</tr>
<tr>
<td></td>
<td>• Evaluation or other document from school or program that establishes youth attendance or enrollment</td>
</tr>
<tr>
<td>• Enrolled in an institution which provides post-secondary or vocational education, e.g., a youth could be enrolled full-time or part-time in a university or trade school</td>
<td>• Name, location, and type of institution</td>
</tr>
<tr>
<td></td>
<td>• Grades</td>
</tr>
<tr>
<td></td>
<td>• Progress report</td>
</tr>
<tr>
<td></td>
<td>• Evaluation or other document from institution that established youth attendance or enrollment</td>
</tr>
<tr>
<td>• Participating in a program or activity designed to promote, or remove barriers to employment, e.g., a youth could be in Job Corps or attending classes on resume writing and interview skills</td>
<td>• Name, location and program or activity description</td>
</tr>
<tr>
<td></td>
<td>• Statement from program or activity that establishes youth participation</td>
</tr>
<tr>
<td>• Employed for at least 80 hours per month, e.g., a youth could be employed part-time or full-time, at one or more places of employment</td>
<td>• Name of employer, company, agency or organization, location and nature of employment</td>
</tr>
<tr>
<td></td>
<td>• Statement from employer that establishes hours worked per month</td>
</tr>
<tr>
<td>• Incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated written or recorded information in the case plan of the child</td>
<td>• The child’s medical condition must be documented by a physician, a physician’s assistant or a nurse practitioner under the supervision of a physician or a licensed psychologist</td>
</tr>
</tbody>
</table>
Legal Authority/Judicial Review

The **eligibility rule** for court-placed children is that the Commissioner of the LDSS/ACS must still retain care and custody or custody and guardianship of the child and there must be a current court order to that effect that covers the foster care period.

The **eligibility rule** for children placed through a Voluntary Placement Agreement pursuant to section 384-a of SSL is that the court has reviewed the child’s placement pursuant to SSL 358-a and determined within 180 days of the placement that continued placement is in the best interest of the child.

For a child placed as an abused or neglected child pursuant to Article 10 of the FCA, or a child placed as a destitute child pursuant to Article 10-C (destitute child)\(^{35}\) of the FCA, or a child placed voluntarily pursuant to section 384-a of the SSL or any category of foster child who is now completely legally freed for adoption, legal authority does not lapse for failure to secure an extension of placement order. Pursuant to Article 10-AoF the FCA, as enacted by Chapter 3 of Laws of 2005, the court retains ongoing jurisdiction and legal authority on the part of the LDSS/ACS (and OCFS for completely freed JDs) and it remains in effect until a subsequent order from the court either discharges the child or transfers legal custody.

For court-placed children under Articles 3 (JD) and 7 (PINS) of the FCA who are not completely legally freed for adoption, an initial order (disposition or remand) or a subsequent order (extension of placement/permanency hearing) must be in effect throughout the child’s placement. Except for the initial permanency hearing in certain Article 3 placements, extension of placement hearings are combined with permanency hearings and must be held within 12 months thereafter.\(^{36}\) Cases not meeting this criterion lose Title IV-E eligibility at the end of the month that legal authority lapses and the case remains ineligible until legal authority is re-established. At that time, Title IV-E eligibility resumes as of the first day of the month in which legal authority is re-established as long as all other Title IV-E requirements continue.

\(^{35}\) Pursuant to New York State law, the date certain of the first permanency hearing is now included in all initial removal orders for children placed pursuant to Article 10 (abuse/neglect), or Article 10-C (destitute child) of the FCA and in the SSL 358-a order approving the Voluntary Placement Agreement. The date certain for compliance with New York State standards for the initial permanency hearing must be no later than eight months from removal (date of removal plus 60 days plus six months). At the conclusion of each permanency hearing, a new date certain will be established for the next permanency hearing, which for compliance with New York State standards, must be commenced no later than six months from the conclusion of the previous permanency hearing. Each permanency hearing must be concluded within 30 days of the scheduled date certain for such permanency hearing. The failure to hold a permanency hearing by the date certain for a case subject to Article 10-A of the FCA does not result in the lapse of legal authority. **Footnote now includes mention of the destitute child.**

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Note: When determining the date of the court order, use the hearing date located in the upper right hand corner of the first page of the order, or if that is not available, the date the court order was signed by the judge.
Acceptable Documentation
The acceptable documentation that will verify legal authority/judicial review is...

**Court Placements**
- The most recent permanency hearing court order issued pursuant to Article 10-A of the FCA continuing the child in foster care for children who entered foster care pursuant to Article 10 (abuse/neglect), or Article 10-C (destitute child)\(^{37}\) of the FCA or a voluntarily surrender pursuant to section 384 of the SSL (with section 358-a of the SSL court order approving the voluntary placement), and for all children in foster care who are completely legally freed for adoption.

- The initial court order placing the child in the care and custody or custody and guardianship of the Commissioner of the LDSS/ACS for children in foster care who entered care pursuant to Article 10 (abuse/neglect) or Article 10-C (destitute child)\(^{38}\) of the FCA or section 358-a of the SSL (voluntary surrender) and who have not had their initial permanency hearing.

- The court disposition under Articles 3 (JD) or 7 (PINS) of the FCA placing or continuing the child in foster care covering the foster care authorization period for children in foster care pursuant to Articles 3 or 7 of the FCA who are not completely legally freed for adoption.

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**NOTES**

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\(^{37}\) See 12-OCFS-ADM-08 for details regarding the destitute child.

\(^{38}\) Ibid.
Acceptable Documentation (continued)
The acceptable documentation that will verify legal authority/judicial review is...

Voluntary Placements

- The court order issued pursuant to section 358-a of the SSL with a determination made within 180 days of the placement of the child in foster care that continuation in foster care is in the best interests of the child; and

- The most recent permanency hearing court order issued pursuant to Article 10-A of the FCA that retains legal authority with the LDSS/ACS Commissioner and approves continuation of the child in foster care.

Do not use the Voluntary Placement Agreement as the document authorizing care and custody to the Commissioner of the LDSS/ACS if the placement has gone beyond the 180th day without a court determination that it is in the best interests of the child to remain in foster care.

For children placed through a voluntary placement agreement pursuant to SSL 384-a, if the child remains in foster care for more than 180 days, the court must determine within 180 days of the child’s placement, that continued placement is in the best interests of the child. Otherwise, Title IV-E ends on the 180th day.
Reasonable Efforts to Finalize Permanency
The eligibility rule is that for court ordered placements (children remove on or after March 27, 2000) only, within 12 months of the date the child is considered to have entered foster care and every 12 months thereafter, there must be a determination made by the court on a case specific basis and indicated in the court order that the Agency made reasonable efforts to finalize the child’s permanency plan or enable the child to safely return home.

A child is considered to have entered foster care the earlier of the date of the fact finding of abuse or neglect pursuant to Article 10 of the FCA or the date that is 60 days after the child was removed (physical/constructive) from his/her home.

Note: For youth placed in detention after removal from the home pursuant to either Articles 3 (JD) or 7 (PINS) of the FCA and the youth remains in detention for more than 60 days prior to the placement in foster care, the M910 date in CCRS is the date the child is considered to have entered foster care. This is the due date for the reasonable efforts and every 12 months thereafter.

This federal requirement does not apply to children who were placed through a Voluntary Placement Agreement.

Federal exception to rule: When the court has made a determination that reasonable efforts are not required, a permanency hearing must be held within 30 days of the court’s determination that reasonable efforts are not required. This is part of the Title IV-E State Plan. (This is a court requirement—the LDSS/ACS requirement is to obtain the reasonable efforts determination as indicated above.)

What’s Important?

A case specific reasonable efforts determination!

Irrespective of when the child was removed, a subsequent judicial determination that the Agency made reasonable efforts to finalize the child’s permanency plan or to enable the child to safely return home must be made at least once every 12 months following the preceding determination.

Cases that do not meet this rule lose Title IV-E eligibility at the end of the month that the reasonable efforts determination is due and case remains ineligible until this determination is made. Claiming for Title IV-E must cease. Title IV-E resumes (provided all other eligibility criteria is met) as of the first of the month in which the determination is made.
Acceptable Documentation
The acceptable documentation that will verify reasonable efforts to finalize permanency is...

- A court order issued pursuant to Article 10-A of the FCA that contains an explicit case-specific determination that reasonable efforts were made to enable the child to safely return home or if the permanency plan is not to return to his/her home, that reasonable efforts were made to finalize the child’s permanency plan. A court order which contains a brief statement of the facts upon which the court based its “reasonable efforts were made to finalize the child’s permanency plan” finding is acceptable. Also acceptable is where the court makes a reasonable efforts finding and cross-references documentation, such as a petition or report (i.e., FASP or Permanency Hearing Report, etc.) or testimony upon which the court based its finding. If the child’s permanency goal is discharge to the child’s parent, a finding of reasonable efforts to enable the child to safely return to his/her home supported by a statement of fact or comparable cross-reference to facts, documentation, testimony, etc. is also acceptable.

- A court finding that reasonable efforts were not made to finalize the child’s permanency plan or safely return the child home does not satisfy Title IV-E eligibility requirements. The case will lose its eligibility for Title IV-E at the end of the month in which the reasonable efforts determination is due. Eligibility will resume on the first day of the month in which an acceptable reasonable efforts to finalize permanency or safely return the child home determination is made by the court.

Important: A court order which contains a brief statement of the facts upon which the court based its “reasonable efforts were made to finalize the child’s permanency plan” is acceptable. Also, acceptable is where the court makes a reasonable efforts finding and cross-references documentation, such as a petition or report (FASP or Permanency Hearing Report) or testimony upon which the court based its finding. If the child’s permanency goal is discharge to the child’s parent, a finding of reasonable efforts to enable the child to return to his or her home safely supported by a statement of fact or comparable cross-reference to facts, documentation, testimony etc. is also acceptable.

For Family Court Official Forms Master Index, access:
http://www.courts.state.ny.us/forms/familycourt/index.shtml

To access the website for the Permanency Bill:
http://www.ocfs.state.ny.us/main/legal/legislation/permanency/

For questions regarding Title IV-E foster care eligibility, send an email to a Title IV-E expert at:
Title.IVE@ocfs.state.ny.us
Acronyms Related to Child Welfare Eligibility

**-A-**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABEL</td>
<td>Automated Budget Eligibility Logic</td>
</tr>
<tr>
<td>ACF</td>
<td>Administration for Children and Families (federal)</td>
</tr>
<tr>
<td>ACS</td>
<td>Administration for Children Services</td>
</tr>
<tr>
<td>AD</td>
<td>Aged/Disabled</td>
</tr>
<tr>
<td>ADC</td>
<td>Aid to Dependent Children</td>
</tr>
<tr>
<td>ADM</td>
<td>Administrative Directive Memorandum</td>
</tr>
<tr>
<td>AFDC</td>
<td>Aid to Families with Dependent Children</td>
</tr>
<tr>
<td>AFCARS</td>
<td>Adoptive and Foster Care Analysis and Reporting System</td>
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<tr>
<td>AP</td>
<td>Adult Protective</td>
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<td>ASFA</td>
<td>Adoption and Safe Families Act</td>
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**-B-**

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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BICS</td>
<td>Benefits Issuance and Control System</td>
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**-C-**

<table>
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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CCBG</td>
<td>Child Care Block Grant</td>
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<tr>
<td>CCF</td>
<td>Congregate Care Facility</td>
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<tr>
<td>CCR</td>
<td>Child Case Record</td>
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<tr>
<td>CCRS</td>
<td>Child Care Review Service</td>
</tr>
<tr>
<td>CID</td>
<td>Case Initiation Date</td>
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<tr>
<td>CIN</td>
<td>Client Identification Number</td>
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<tr>
<td>CPRS</td>
<td>Child Protective Record Summary</td>
</tr>
<tr>
<td>CPRT</td>
<td>Casework Practice Recording Template</td>
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<td>CPS</td>
<td>Child Protective Services</td>
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<td>CSMS</td>
<td>Child Support Management System</td>
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<tr>
<td>CW</td>
<td>Child Welfare</td>
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<td>CWS</td>
<td>Child Welfare Services</td>
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<th>Acronym</th>
<th>Description</th>
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<td>Departmental Appeals Board</td>
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<tr>
<td>DCBG</td>
<td>Day Care Block Grant</td>
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<tr>
<td>DOB</td>
<td>Date of Birth</td>
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<td>DSS</td>
<td>Department of Social Services</td>
</tr>
<tr>
<td>DV</td>
<td>Domestic Violence</td>
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</tbody>
</table>
Acronyms Related to Child Welfare Eligibility

-E-
EAF Emergency Assistance to Families

-F-
FA Family Assistance
FAD Foster and Adoptive Home Development
FAR Finalized Adoption Record
FASP Family Assessment and Service Plan
FBH Foster (Family) Boarding Home
FC Foster Care
FCA Family Court Act
FCAA Foster Care and Adoption Assistance
FCBG Foster Care Block Grant
FFFS Flexible Fund for Family Services
FNP Federally Non-participation
FS Food Stamps

-H-
HEAP Home Energy Assistance Program

-I-
ICPC Interstate Compact on the Placement of Children
INF Informational Letter

-J-
JD Juvenile Delinquent (Article 3 of FCA)

-L-
LCM Local Commissioner Memorandum
LDSS Local Department of Social Services
# Acronyms Related to Child Welfare Eligibility

## -M-

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>MA</td>
<td>Medical Assistance/Medicaid</td>
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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>NCANDS</td>
<td>National Child Abuse and Neglect Data System</td>
</tr>
<tr>
<td>NYS</td>
<td>New York State</td>
</tr>
<tr>
<td>NYCRR</td>
<td>New York Codes Rules and Regulations</td>
</tr>
<tr>
<td>NYSDI</td>
<td>New York State Disability</td>
</tr>
<tr>
<td>NYSDOH</td>
<td>New York State Department of Health</td>
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<tr>
<td>NYSDOL</td>
<td>New York State Department of Labor</td>
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## -O-

<table>
<thead>
<tr>
<th>Acronym</th>
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<tbody>
<tr>
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<td>Office of Court Administration</td>
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<tr>
<td>OCFS</td>
<td>Office of Children and Family Services (State)</td>
</tr>
<tr>
<td>OCSE</td>
<td>Office of Child Support Enforcement</td>
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<tr>
<td>OMH</td>
<td>Office of Mental Health</td>
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<td>OMRDD</td>
<td>Office of Mental Retardation and Developmental Disabilities</td>
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<td>OTDA</td>
<td>Office of Temporary and Disability Assistance</td>
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## -P-

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<td>PA</td>
<td>Public Assistance (Temporary Assistance)</td>
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<td>PINS</td>
<td>Person in Need of Supervision (Article 7 of the FCA)</td>
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<tr>
<td>POS</td>
<td>Purchase of Services</td>
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<td>PPG</td>
<td>Permanency Planning Goals</td>
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<tr>
<td>PRWORA</td>
<td>Personal Responsibility Work Opportunity and Reconciliation Act of 1996</td>
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## -R-

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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>RAP</td>
<td>Risk Assessment Profile</td>
</tr>
<tr>
<td>RE</td>
<td>Reasonable Efforts</td>
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<tr>
<td>RFI</td>
<td>Resource Integrated File</td>
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<tr>
<td>RSDI</td>
<td>Retirement and Survivors’ Disability</td>
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## Acronyms Related to Child Welfare Eligibility

### -S-

<table>
<thead>
<tr>
<th>Acronym</th>
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<tbody>
<tr>
<td>SA</td>
<td>Safety Assessment</td>
</tr>
<tr>
<td>SACWIS</td>
<td>Statewide Automated Child Welfare Information System</td>
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<tr>
<td>SCR</td>
<td>State Central Register</td>
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<td>SDC</td>
<td>Staff Development Coordinator</td>
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<td>SDX</td>
<td>State Data Exchange</td>
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<td>SFY</td>
<td>State Fiscal Year</td>
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<td>SN</td>
<td>Safety Net</td>
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<td>SSA</td>
<td>Social Security Act</td>
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<td>SSA</td>
<td>Social Security Administration</td>
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<td>SSBG</td>
<td>Social Services Block Grant</td>
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<td>SSD</td>
<td>Social Security Disability</td>
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<td>SSI</td>
<td>Supplemental Security Income</td>
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<td>SSL</td>
<td>Social Services Law</td>
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<td>SSPS</td>
<td>Statewide Services Payment System</td>
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### -T-

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<td>TA</td>
<td>Temporary Assistance (Public Assistance)</td>
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<td>TANF</td>
<td>Temporary Assistance to Needy Families</td>
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<td>TPR</td>
<td>Termination of Parental Rights</td>
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### -U-

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<tr>
<td>UCR</td>
<td>Uniform Case Record (old term)</td>
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<td>UIB</td>
<td>Unemployment Insurance Benefits</td>
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<td>US</td>
<td>United States</td>
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<tr>
<td>USCIS</td>
<td>United States Citizenship and Immigration Services</td>
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### -V-

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<td>VA</td>
<td>Veterans’ Administration</td>
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<tr>
<td>VA</td>
<td>Voluntary Agency</td>
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<td>VB</td>
<td>Veterans’ Benefits</td>
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<tr>
<td>VPA</td>
<td>Voluntary Placement Agreement</td>
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</table>
Acronyms Related to Child Welfare Eligibility

-W-

WC     Workers’ Compensation
WMS    Welfare Management System