



**WISCONSIN**

**TITLE IV-E ELIGIBILITY and  
REIMBURSABILITY POLICY  
MANUAL**



Division of Safety and Permanence

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## **1. Introduction**

This manual explains the process for making title IV-E eligibility and reimbursability determinations and redeterminations. The appendices to the manual include updated title IV-E eligibility and reimbursability references and desk guides for staff involved in making title IV-E determinations along with relevant Department of Children and Families (DCF) released Informational and Numbered Memos.

## **2. Effective Dates**

This title IV-E Eligibility and Reimbursability Policy Manual, effective January 2014, replaces the previous title IV-E Eligibility and Reimbursability Manual issued in January, 2011. The policy and procedures stated in this eligibility and reimbursability manual incorporate the 2005 Deficit Reduction Act (effective February 2, 2006), the Adoption and Safe Families Act of 1997, the Chafee Foster Care Independence Act of 1999, the title IV-E rules and regulations under 45 CFR Parts 1355, 1356, and 1357 issued in 2000 (effective March 27, 2000), the 2001 Wisconsin Act 109 enacted in 2001 and effective July 30, 2002, and the Fostering Connections to Success and Increasing Adoptions Act of 2008.

## **3. Categories of Title IV-E Reimbursement**

There are two major concepts within the title IV-E program that determine whether federal reimbursement can be claimed for a child; Eligibility and Reimbursability. The determination of title IV-E eligibility and reimbursability for the child allows the state to claim federal title IV-E reimbursement for the child's maintenance costs. The determination of title IV-E eligibility also allows the State to obtain federal title IV-E reimbursement for administrative and training costs associated with the child.

### **3.1 Title IV-E Eligibility**

Initial title IV-E eligibility is determined based on information related to the child when the child is initially removed from his or her home, and the child welfare agency obtains placement and care responsibility of the child. Annual re-determinations of title IV-E eligibility for AFDC requirements are no longer required. Reasonable efforts to achieve the goals of the permanency plan (REPP), out-of-home care placement, and Supplemental Security Income (SSI) status must be periodically reviewed, though these are reimbursability factors (see section 3.2).

Title IV-E administrative costs can be claimed when a child is considered to be title IV-E eligible and reimbursable. When a child is considered title IV-E

eligible only the following types of cases are federally claimable for title IV-E administrative funds:

- Supplemental Security Income (SSI) recipients
- AWOL (Missing from Out-of-Home Care)
- Trial Reunification (up to 150 days)
- Out-of-home care placement with a relative who is in the process of becoming a licensed foster home (up to 10 months)

If a child is determined not eligible, then the child is not title IV-E eligible for the duration of the out-of-home care placement episode. The only way a child could become title IV-E eligible or reimbursable is if the out-of-home care episode ends due to the child being discharged from out-of-home-care *or* the agency's placement and care responsibility ends during a trial reunification, and the child subsequently returns to out-of-home care placement. In that scenario, a new title IV-E eligibility determination would be required and the child could become claimable if all federal title IV-E eligibility requirements are met.

### **3.2 Title IV-E Reimbursability**

A child must be determined title IV-E eligible and reimbursable for the State to claim federal reimbursement for the maintenance costs of the child. The agency managing the child's case must meet certain title IV-E procedural requirements for the child to be considered reimbursable. The child's title IV-E reimbursability status may vary over the duration of the out-of-home care episode depending on out-of-home care placement changes and court actions. Additionally, the child's out-of-home care placement must be with a reimbursable provider to claim federal title IV-E funds. The provider must also be licensed in a timely manner for the child's maintenance costs to be reimbursable. When a child is determined to be title IV-E reimbursable the state may claim both federal title IV-E administrative and maintenance dollars for the child's out-of-home care case management and placement costs.

## **4. Documentation for Title IV-E Determination**

A child should be made title IV-E eligible or reimbursable if appropriate facts support the child meeting the title IV-E requirements. If the eligibility specialist has reason to doubt that a child is eligible or reimbursable, the child should not be made eligible or reimbursable, and the eligibility specialist should put the case in a pending recommendation status while additional information is sought. Case files should typically not remain in a pending status for more than six (6) months from the date the title IV-E eligibility unit receives the out-of-home care placement referral from the county or state child welfare agency. After six (6) months have expired the case file should be discussed with regional eligibility coordinators to determine the appropriate title IV-E status for the pending case file.

Case forms, documentation, required court orders and computer screen printouts which document a child's eligibility must be included in the financial section of the child's case file, maintained in a separate eligibility file, or documented in eWiSACWIS. Information obtained from conversations with persons knowledgeable about the child (e.g. relatives or the case manager) must be documented, including an explanation of the source of the information on the appropriate title IV-E eligibility form, or on an attached separate sheet of paper. Proper documentation of the child's citizenship and Social Security Number (SSN) status must also be documented in eWiSACWIS and placed in the child's title IV-E case file.

## **5. Initial Title IV-E Determination**

The determination of title IV-E eligibility of children under the placement and care responsibility of the agency allows the State and counties to obtain federal title IV-E funding for the administrative and maintenance costs for children in out-of-home care placement.

A child who meets all of the eligibility criteria provided in this manual is title IV-E eligible. Title IV-E eligibility is determined at the time the agency obtains placement and care responsibility of the child via a court order or a voluntary placement agreement (VPA). If a child is initially determined title IV-E eligible, the child continues to be title IV-E eligible, provided that none of the circumstances that cause a child to lose title IV-E eligibility apply.

### **5.1 Title IV-E Initial Eligibility Criteria**

5.1.1 The agency has placement and care responsibility for the child via a court order or voluntary placement agreement (VPA).

5.1.1.1 Placement and care responsibility is established when the form contains the requisite "placement and care" language *plus* the agency's name and/or a checked box next to the requisite language.

5.1.1.2 Assuming all other eligibility criteria are met, if the order contains the requisite "placement and care" language but lacks the additional authorizing criteria listed in section 5.1.1.1, the child would be considered eligible – not reimbursable due to "incomplete placement and care" information.

5.1.2 The agency has obtained the required Contrary to the Welfare (CTW) judicial finding in the initial court order authorizing the removal of the child, if the child entered out-of-home care placement via a court order.

5.1.3 The agency has obtained the required Reasonable Efforts to Prevent Removal (REPR) judicial finding within 60 days of the child's removal if the child entered care via a court order.

- 5.1.4 The child has been removed from the home; and
- 5.1.5 The child meets the Aid for Families with Dependent Children (AFDC) relatedness criteria, which includes the following:
  - 5.1.5.1 Living with a specified relative.
  - 5.1.5.2 Deprivation
  - 5.1.5.3 Financial need; Income and Assets
  - 5.1.5.4 U.S. citizenship / qualified legal alien
  - 5.1.5.5 Age / school requirement

## **5.2 Title IV-E Continuing Eligibility Criteria**

If a child is initially determined title IV-E eligible, the child continues to be title IV-E eligible while under the placement and care responsibility of the agency, unless one of the following instances occurs, in which case the child is no longer title IV-E eligible for the duration of the out-of-home care placement episode:

- 5.2.1 The child no longer meets the age requirement as specified;
- 5.2.2 The agency's placement and care responsibility for the child has lapsed or been terminated by a court order;
- 5.2.3 The child entered out-of-home care placement via a voluntary placement agreement (VPA), *and* the agency failed to obtain a court order with the contrary to the welfare (CTW) finding before the expiration of the VPA *or* within 180 days of the child's removal date; or
- 5.2.4 The child was in a Trial Reunification placement lasting longer than 150 continuous days. If one continuous Trial Reunification lasts longer than 150 days, the child is considered to have been discharged from out-of-home care, and title IV-E eligibility must be newly determined for any subsequent re-entry into care.

A child who is initially determined ineligible for title IV-E can never be considered title IV-E eligible and/or reimbursable for the duration of that out-of-home care placement episode.

## **5.3 Title IV-E Eligibility and Legal Status**



5.3.1 The first title IV-E eligibility criterion is that the agency must have placement and care for the child entering out-of-home care placement. This must be initially achieved by either of the following:

5.3.1.1 An initial court order authorizing the child’s removal, or

5.3.1.2 A court order grants placement and care responsibility to the county agency placing the child in out-of-home care placement and remains in effect until the expiration of the placement and care responsibility or a subsequent court order that terminates placement and care responsibility. Placement and Care Responsibility language is included on court orders traditionally used to remove children from their home, or

5.3.1.3 A Voluntary Placement Agreement (VPA).

Standard court orders and statewide VPA documents have specific language on them that conveys the placing agency has “placement and care responsibility” for the child entering out-of-home care placement. It is recommended that county agencies, Tribal agencies, and BMCW utilize these standard forms in order to comply with federal requirements.

Links to Circuit Court Forms:

[http://www.wicourts.gov/circuit/ccform.jsp?FormName=&FormNumber=&beg\\_date=&end\\_date=&StatuteCite=&Category=2](http://www.wicourts.gov/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=2)

Link to Voluntary Placement Agreement Forms:

<https://dcf.wisconsin.gov/files/forms/doc/2425.docx>

<https://dcf.wisconsin.gov/files/forms/doc/1590.docx>

## **5.4 Contrary to the Welfare (CTW) Judicial Finding**

5.4.1 For a child to be title IV-E eligible the initial court order authorizing removal must include a statement to the effect that continuation in the removal home would be “contrary to the welfare” of the child (45 CFR 1356.21; s. 48.21(5)(b)1., Wis. Stats).

5.4.1.1 The initial court order authorizing the removal of the child is usually the Temporary Physical Custody (TPC) order, the Disposition Order, or the Change of Placement Order. Agencies should be utilizing the standard court order forms to ensure federal compliance.

- 5.4.1.2 The local agency should make every effort to ensure that the initial court order authorizing the removal of the child, even temporarily, includes the required language, otherwise the child cannot be title IV-E eligible for the duration of the out-of-home care placement episode. Copies of court orders related to title IV-E eligibility must be maintained in eWiSACWIS, and in the eligibility case file.
- 5.4.1.3 The CTW language must reference the home from which the child was physically or constructively removed; if the child was removed from the home of a relative or other caretaker, it must reference that home (it can also reference the parents or legal guardians).
- 5.4.2 All title IV-E requirements also apply to delinquent youth and juveniles in need of protection or services (JIPS) placed in out-of-home care placement pursuant to a court order. In this instance, the juvenile meets the title IV-E eligibility criterion only if the initial court order includes a statement to the effect that continuation in the home would be “contrary to the welfare” of the individual juvenile. It is permissible to include language referencing community protection so long as it is combined with language in the court order that states it is contrary to the welfare of the juvenile to remain in the home.
- 5.4.2.1 Physical removal of the child **must coincide with**—i.e. occur within one business day of—the court order that authorized the child’s removal *unless* the court specifically authorizes the conditions for a delay. Departmental Appeals Board (DAB) Decision 2017 (link below) found that the court could allow the child to remain at home for a short period of time until a specified condition is met (e.g., a bed becomes available at a specific facility):  
<http://www.hhs.gov/dab/decisions/dab2017.htm>
- 5.4.2.2 In situations where a constructive removal occurs the date of the court order authorizing the child’s removal is the first court order and must contain the “Contrary to Welfare” language, as required by title IV-E. In these situations the child’s removal from the home identified by the contrary to welfare finding may have occurred prior to the initial court hearing that authorized the child’s removal.
- 5.4.3 If the CTW judicial finding is not stated in the initial court order authorizing the removal of the child, title IV-E eligibility can be achieved only if the court transcript of the court proceedings for that particular court order contains the required judicial finding language. Court transcripts are costly and difficult to obtain, therefore agencies and courts should make every effort to ensure that the required judicial finding language is documented in the initial court order that authorized the removal of the child.

- 5.4.4 A judicial finding must be made on a case-by-case basis based on child specific circumstances. The suggested practice is that child specific findings are documented directly in the court order, but it is also acceptable for documentation (e.g. police report, case worker court report) to be incorporated into the court order at the time of the hearing and attached to the court order. There is no federal requirement against having multiple children listed on one court order; however, best practices in Wisconsin include listing each child on a separate court order because the circumstances can vary from child to child.
- 5.4.5 Best practices show that child specific information should be entered / documented on the court order to best ensure meeting the title IV-E CTW judicial finding.
- 5.4.6 Federal policies state that the federal auditors may not look behind the court order language that satisfies the CTW statement requirement for children under the agency's placement and care responsibility. Some examples of such language include, but are not limited to:
  - 5.4.6.1 The child is without proper care, custody, or support and immediate protective custody is necessary to prevent personal harm to the child (including the child's specific situation).
  - 5.4.6.2 The removal from the home is/was necessary to protect the child (including the child's specific situation).
  - 5.4.6.3 The child is being neglected and is without proper care and supervision (including the child's specific situation).
  - 5.4.6.4 The child's condition (or the circumstances surrounding his/her care) requires that custody be immediately assumed to safeguard his/her welfare (including the child's specific situation).
  - 5.4.6.5 The child will commit or attempt to commit other offenses injurious to himself or herself and the community before the court disposition (including the child's specific situation).
  - 5.4.6.6 The child's continued residence in his or her home, pending disposition, will not safeguard the best interests of the child and the community because of the serious and dangerous nature of the act(s) the child is alleged to have committed (including the child's specific situation).
  - 5.4.6.7 The child is in need of out-of-home care placement services to protect himself or herself and the community from injury (including the child's specific information).

- 5.4.6.8 The child is in immediate danger of serious physical injury or sexual abuse (including the child’s specific situation).
  - 5.4.6.9 The juvenile’s continued residence in his/her home, pending disposition, will not safeguard the well-being of the juvenile and the safety of the community because of the serious and dangerous nature of the act(s) the child is alleged to have committed as detailed in the police report that is attached to this order.
- 5.4.7 Affidavits or nunc pro tunc orders are not acceptable for meeting the CTW judicial language requirement (per 45 CFR 1356.21). A nunc pro tunc order is an order in and of itself that provides new information to reflect back to a previous court order that should have included specific information that was inadvertently omitted. Nunc pro tunc literally means “now for then”.

Nunc pro tunc orders were used in the past for title IV-E purposes when previous orders inadvertently omitted the required “contrary to the welfare” judicial finding for title IV-E eligibility. These orders are not allowed for title IV-E purposes under the federal regulations. Court orders must have the required judicial findings in the actual orders on the date the court order was issued. The issued date generally corresponds with the date of the court hearing. The order may be signed by the court at a later date.

From a title IV-E perspective only, if a judge or court commissioner signs the court order after the heard date of the order, and uses “Nunc Pro Tunc” to date his/her signature on the order back to the heard date, this does not affect the ability to claim title IV-E. The heard date of the court order is used to determine when a judicial finding of contrary to the welfare, reasonable efforts to prevent removal, reasonable efforts to finalize the permanency plan, and when placement and care responsibility was established.

- 5.4.8 Court orders solely referencing the state law are not acceptable for meeting the contrary to the welfare judicial language requirement (45 CFR 1356.21). For example, if the state law says that a child can be placed in an out-of-home care placement only if it is contrary to the welfare of the child to remain home; it is not acceptable for the court order to simply refer to that law. There must be a specific statement of the child’s situation and why that situation meets the eligibility criterion.
- 5.4.9 The contrary to the welfare judicial finding should be stated in the court order or in a document attached by reference. The only exception to this is if the court transcript of the official proceedings contains the required judicial finding language. Court transcripts are costly and difficult to obtain, therefore agencies and courts should make every effort to ensure that the required judicial finding language is documented in the initial court order that authorized the removal of the child.

5.4.10 A child is considered to have “entered” foster care 60 days after the date on which the child is removed from the home, or when child has been adjudicated a child (or juvenile) in need of protective services (CHIPS or JIPS) or found to be delinquent minor child, whichever occurs first. Standard practice in Wisconsin is that the date the child is removed is considered the date they entered foster care.

## **5.5 Reasonable Efforts to Prevent Removal (REPR) Judicial Finding**

5.5.1 There must be a court order within 60 days of the child’s removal that contains a judicial finding that “reasonable efforts to prevent removal and return the child / juvenile safely home were”:

5.5.1.1 “made by the department or agency responsible for providing services in the following manner:” This finding is applicable in instances where the child was known to be at risk prior to any petition for the care of the child. The agency had some opportunity to work with the family to eliminate the need to remove the child.

5.5.1.2 “not possible due to the following emergency situation”: This statement is applicable in emergency situations where the child must be removed immediately due to the severity of the situation and protection of the child. Saying that the agency case worker has not had enough time to make the required finding does not meet the reasonable efforts judicial language requirement. If there is not time to make reasonable efforts due to an emergency situation then the judicial finding should outline those emergency reasons.

5.5.1.3 “not required under s. 48.355(2d) and 938.355(2d) because”: Aggravated circumstances exist, including parental abandonment, torture, chronic abuse, and sexual abuse; the parental rights of the parent to another child have been involuntarily terminated; the parent has been convicted of certain felonies committed against the child or another child of the parent.

If the reasonable efforts to prevent removal finding is not obtained within 60 days from the child’s removal, the child cannot be title IV-E eligible for the duration of the out-of-home care placement episode.

5.5.2 The reasonable efforts to prevent removal and return the child safely home judicial finding as stated above should be stated in the court order or in a document attached by reference. The only exception to this is if the court

transcript of the court proceedings for that particular court order contains the required judicial finding language. Court transcripts are costly and difficult to obtain, therefore case workers should make every effort to ensure that the required judicial finding language is documented in the initial court order that authorized the removal of the child or within 60 days of removal.

5.5.2.1 A judicial finding must be made on a case by case basis based on child specific circumstances. The suggested practice is that child specific findings are documented directly in the court order, but it is also acceptable for documentation (e.g. police report, case worker court report) to be incorporated into the court order at the time of the hearing and attached to the court order. There is no federal requirement against having multiple children listed on one court order; however, best practices in Wisconsin include listing each child on a separate court order.

5.5.2.2 Federal policies state that the auditors may not look behind the court order language that satisfies the reasonable efforts to prevent removal statement requirement for children under the agency's placement and care responsibility. Some examples of such language include, but are not limited to:

5.5.2.2.1 The court finds that the case worker / agency made reasonable efforts in trying to maintain the child in his/her own home (including the child's specific situation).

5.5.2.2.2 The court finds that the worker / agency made reasonable efforts to prevent the removal of the juvenile from the home by (including the child's specific situation).

5.5.2.2.3 Due to the circumstances presented, there was an immediate danger to the child that would not have been mitigated by the provision of preventive services (including the child's specific situation).

5.5.2.2.4 Due to the emergency situation as presented in the attached police report dated (October 1, 2003), the lack of preventive efforts to maintain the child in his/her home was reasonable (including the child's specific situation).

5.5.3 Affidavits or nunc pro tunc orders are not acceptable for meeting the reasonable efforts to prevent removal judicial language requirement (per 45 CFR 1356.21). A nunc pro tunc order is an order in and of itself that provides

new information to reflect back to a previous court order that should have included specific information that was inadvertently omitted. Nunc pro tunc literally means “now for then”.

Nunc pro tunc orders were used in the past for title IV-E purposes when previous orders inadvertently omitted the required “contrary to the welfare” judicial finding for title IV-E eligibility. These orders are not allowed for title IV-E purposes under the federal regulations. Court orders must have the required judicial findings in the actual orders on the date the court order was issued.

From a title IV-E perspective only, if a judge or court commissioner signs the court order after the heard date of the order, and uses “Nunc Pro Tunc” to date his/her signature on the order back to the heard date, this does not affect the ability to claim title IV-E. The heard date of the court order is used to determine when a judicial finding of contrary to the welfare, reasonable efforts to prevent removal, reasonable efforts to finalize the permanency plan, and when placement and care responsibility was established.

- 5.5.4 Court orders solely referencing the state law are not accepted for meeting the reasonable efforts to prevent removal judicial language requirement (45 CFR 1356.21).

## **5.6 Voluntary Placement Agreements (VPA)**

- 5.6.1 A voluntary placement agreement (VPA) is a signed written agreement between the agency and the parents or legal guardian of the child with the consent of the child if the child is age 12 or older, which is binding on all parties to the agreement, and is a revocable agreement. It specifies the legal status of the child and the rights and obligations of the parent or legal guardian and the county agency while the child is in out-of-home care placement. The signature of a child age 12 or older is not required on a voluntary placement agreement.

<https://dcf.wisconsin.gov/files/forms/doc/2425.docx>

<https://dcf.wisconsin.gov/files/forms/doc/1590.docx>

- 5.6.2 Federal law allows title IV-E eligibility (and title IV-E Reimbursability) to continue for 180 days under a VPA without a court order. If the child remains in out-of-home care placement beyond 180 days a court order containing the required contrary to the welfare judicial finding must be obtained by the 180<sup>th</sup> day in care. If the required CTW finding is not obtained by the 180<sup>th</sup> day, then the child loses their title IV-E eligibility for the balance of the out-of-home care placement episode.

- 5.6.3 If a child enters care through a VPA that is effective less than 180 days, the agency must obtain the CTW language prior to the expiration of the VPA. If the VPA expires prior to the agency obtaining the CTW language then the child loses their title IV-E eligibility for the balance of the out-of-home care placement episode.
- 5.6.4 Voluntary placement agreements may not be used for out-of-home care placements in facilities other than foster homes, treatment foster homes, or group homes. Foster home and treatment foster home out-of-home care placements may not exceed 180 days. Out-of-home care placements in group homes using a VPA can not exceed 15 days with one exception.
  - 5.6.4.1 A child age 14 or older and is a custodial parent or expectant mother may be placed in a group home especially licensed to provide services to minor parents or expectant mother for up to 180 days under a VPA. All other VPA requirements apply to these out-of-home care placements.
- 5.6.5 The removal date for a VPA is the day that the child enters the out-of-home care placement (180 day count begins at this time), however, if the child is constructively removed, the removal date is the date the VPA is signed by all required parties. Claiming may begin the beginning of the month in which all VPA requirements are met.
- 5.6.6 Title IV-E funds cannot be claimed prior to the month in which all required signatures are obtained. The effective date of the VPA is the date when the last required signature occurs. Children age 12 or older are not required to sign the VPA. Their consent is sufficient for the VPA.
- 5.6.7 The VPA form must specifically state that the placing agency has placement and care responsibility for the child.
- 5.6.8 For children entering out-of-home care placement via a VPA the judicial findings of “reasonable efforts to prevent removal” and “reasonable efforts to finalize the permanency plan” are not required for meeting initial or ongoing title IV-E eligibility requirements.
- 5.6.9 Back to back VPA’s may be used as long as out-of-home care placement dates are adjacent to each other and no gap exists between the agreements. Additionally, the total accumulated time can not exceed the federal 180 day limit. If a gap exists between the agreements then a new out-of-home care placement episode is required for the subsequent VPA. (i.e. If VPA #1 placement ends on 7/12/10 then a subsequent VPA must show a beginning placement date of 7/13/10)



5.6.10 Invalid VPA's are defined as when the placement is not allowed in Wis. Stats. 48.63 or the agreement does not have all required signatures.

## **5.7 Title IV-E Court Order Effective Date and Removal Date**

The date the court ruling is rendered (heard), rather than the date the court order is signed, should be used to establish timeframes for judicial determinations related to a child's eligibility for title IV-E foster care.

The date of legal removal generally corresponds with the physical removal of the child from the home. There can be situations where a child is considered to be constructively removed from a parent or legal guardian on the date the court order is rendered.

Case Example: a child residing with his/her grandparents is removed from his/her parent and placed with the same grandparents; the date of constructive removal is the date of the first court order authorized removal, not the date the child physically moved in with his/her grandparents.

## **5.8 AFDC Eligibility Criteria – General Information**

Part of the title IV-E eligibility process is the establishment that the child entering out-of-home care placement is financially needy using criteria in Wisconsin's AFDC (title IV-A) State plan that was in effect on July 16, 1996.

Financial need must be established based on the circumstances that existed in the removal home in the month of, but prior to the child's removal from the home. The child's AFDC eligibility may not be based on household circumstances that occur at the time of the child's removal.

## **5.9 AFDC Eligibility Criteria – Eligibility Month**

- 5.9.1 AFDC eligibility criteria must be based on information within the eligibility month. The only exception to this is the specified relative criterion. This must be met at some point within six months prior to the eligibility month.
- 5.9.2 The AFDC eligibility month is identified as the month in which legal proceedings (court action) were initiated or the date of the last required signature on the VPA. All AFDC criteria, including deprivation, must be met in the month in which legal proceedings (court action) that led to a child's removal were initiated. If the removal is considered a constructive removal then the eligibility month is still identified as the month in which legal proceedings were initiated or the date of the last required signature on the VPA.

Additionally, the child's deprivation must be established based on household circumstances that occur in the eligibility month but prior to a child's removal. Deprivation factors that occur after the child has been removed from the home may not be used to establish a child's AFDC eligibility.

- 5.9.3 The AFDC eligibility month should not be confused with the effective date for claiming eligibility. Please see Chapter 9.0 for information on IV-E claiming dates.

## **5.10 Determination of AFDC Relatedness**

- 5.10.1 In order to determine a child's title IV-E eligibility per the State's title IV-A 1996 State Plan a DCF-F (CFS-205) title IV-E Out-of-Home Care Income and Resource Determination, must be completed for each case.
- 5.10.2 A child meets the AFDC Relatedness test (using the AFDC plan in effect on July 16, 1996) if one or more of the following three (3) conditions are met:
- 5.10.2.1 The child would have met the AFDC eligibility requirements as in effect on July 16, 1996 in the eligibility month if an application had been made. Completion of the DCF-F (CFS-205) form and supporting documents satisfy this requirement. Examples of documentation indicating that a child would have met these requirements include a court report or case notes that discuss the AFDC group's income and asset information from a local county agency worker who is familiar with the case.
- 5.10.2.2 The child lived with a specified relative in the eligibility month and would have been AFDC eligible during the month of removal according to guidelines in effect as of July 16, 1996.
- 5.10.2.3 The child lived with a person who is not a specified relative, but did reside with a specified relative within six (6) months prior to the eligibility month. If the child would have been AFDC eligible in the removal home in the eligibility month the child meets the AFDC relatedness criteria.
- 5.10.3 **AFDC Criteria Applicable for Initial Title IV-E Eligibility**  
The child meets AFDC Relatedness if all of the AFDC criteria applicable for title IV-E eligibility purposes are met in the eligibility month. The child must meet the following five AFDC criteria to meet AFDC Relatedness for title IV-E: age, citizenship, lived with a specified relative within the six (6) months prior to the eligibility month, deprivation, and financial need (income and assets):

## **5.11 AFDC Relatedness – Age Criteria**

To be title IV-E eligible the child must be under the age of 18 or be 18 **and** enrolled in a secondary school or it's vocational or technical equivalent (including GED classes) **and** expected to complete the program by age 19.

5.11.1 If a child graduates from a secondary school or its vocational or technical equivalent after turning 18, title IV-E claiming should cease on the day the child graduates.

5.11.2 If a child graduates from a secondary school or its vocational or technical equivalent before turning 18 claiming should cease on the day the child turns 18.

5.11.3 If a child 18 and older who was enrolled in a secondary school or its vocational or technical equivalent (including GED classes) is no longer expected to complete the program by the age 19, claiming should cease.

## **5.12 AFDC Relatedness - Citizenship Criteria**

For title IV-E eligibility the worker must verify U.S. Citizenship by birth, naturalization or legal admittance for permanent residence in the U.S. Verification of the child's citizenship status must be included in the title IV-E eligibility case file. A child who is in the U.S. under a visitor or tourist's visa or under a student arrangement does not meet the citizenship criterion for AFDC Relatedness and is not title IV-E eligible.

5.12.1 Some examples of Acceptable Documentation of Citizenship

5.12.1.1 U.S. Passport

5.12.1.2 Certification of Citizenship (Form N-560 or N-561)

5.12.1.3 Birth Certificate

5.12.1.4 Certification of Report of Birth

5.12.1.5 Consular Report of Birth Abroad of a US citizen

5.12.1.6 Screen Prints from CARES/CWW

5.12.1.7 Final Adoption Decree

5.12.1.8 Hospital Record

5.12.1.9 Screen Prints from KIDS

- 5.12.1.10 Verifying documents from DHS Vital Records
- 5.12.2 Under Federal law the term “qualified alien” includes, but is not limited to the following:
  - 5.12.2.1 A legal alien with permanent residency;
  - 5.12.2.2 An alien who is granted asylum;
  - 5.12.2.3 A refugee admitted under federal law;
  - 5.12.2.4 An alien whose deportation is being withheld;
  - 5.12.2.5 A Cuban or Haitian entrant; or
  - 5.12.2.6 An alien or the child or parent of an alien who has been battered or subjected to extreme cruelty in the U.S.
- 5.12.3 Alien status, as specified above, is an individual eligibility requirement. If a parent is an alien, the child is not automatically an alien. It is the responsibility of the worker to verify the citizenship or immigrant status of children applying for title IV-E benefits. For most children, who were presumably born in the U.S., the child’s birth certificate (copy should be maintained in the title IV-E eligibility case file) or the parent’s place of birth most easily verifies citizenship status. For non-citizens, “qualified alien” status can be verified by CARES screen prints or other INS documents, such as those granting permanent residency (I-94, Alien Registration Card) or refugee status.
- 5.12.4 If a mother and/or father is a naturalized U.S. citizen and the baby was not born in this country, the baby’s citizenship status would depend on whether the baby was born before or after the mother became U.S. citizen. If a child was born after his/her mother or father became a naturalized citizen, the child would automatically be a U.S. citizen even though the child was born in a different country. If the child were born before the mother or father became a naturalized U.S. citizen (and the baby was born in a different country), then the worker would need to check on the child’s citizenship status. Usually, when a parent becomes a naturalized U.S. citizen and the baby is living with the parent in the U.S., the baby would also become a U.S. citizen.
- 5.12.5 A child who is identified as an alien under The Immigration and Nationality Act, section 245A(h) [Temporary Disqualification of Newly Legalized Aliens from Receiving Certain Public Welfare Assistance) or 210(f) [Temporary Disqualification of Newly Legalized Aliens From Receiving Aid to Families With Dependent Children] and thus ineligible for title IV-E benefits because

of their alien status would be considered to be eligible for title IV-E if they meet all other title IV-E eligibility requirements. The child's alien status should not be the sole eligibility failing reason. The child must be removed via a court order or VPA and meet all other AFDC requirements.

### **5.13 AFDC Relatedness - Specified Relative**

Specified Relative – For a child to meet initial title IV-E eligibility the child must have lived with a specified relative during the eligibility month or within any of the six (6) months prior to the eligibility month.

The specified relative must be related to the child under review by blood, adoption, or marriage. Relatives by blood or marriage must be within the 5<sup>th</sup> degree of kinship to the child. A person who is or was married to a relative within the 5<sup>th</sup> degree of kinship can also be considered a specified relative.

5.13.1 In accordance with the AFDC requirements in effect in July 1996 a specified relative includes the following relatives who are related to the child by blood, adoption, or marriage:

1<sup>st</sup> degree

Father or Mother

2<sup>nd</sup> degree

Brother or Sister

Grandfather or Grandmother

3<sup>rd</sup> degree

Aunt or Uncle

Nephew or Niece

Great Grandfather or Great Grandmother

4<sup>th</sup> degree

Great Aunt or Great Uncle

First Cousin

Great-Great Grandfather or Great-Great Grandmother

5<sup>th</sup> degree

Great-Great Aunt or Great-Great Uncle

First Cousin once removed (child of first cousin)

Great-Great-Great Grandfather or Great-Great-Great Grandmother

### **5.14 Determination of Removal Home**

- 5.14.1 Removal Home – To meet initial title IV-E eligibility a child must have been removed from the home within six (6) months prior to or in the eligibility month. “Home” for title IV-E purposes means either the person(s) who has legal custody of the child under review or parent(s) of the child under review. A guardian has the rights and responsibilities of legal custody except when legal custody has been vested in another person or agency.
- 5.14.2 There are two types of removal when determining the removal home; physical removal and constructive removal.
  - 5.14.2.1 Physical Removal occurs when the agency has physically removed the child from the home.
  - 5.14.2.2 Constructive Removal is considered “paper removal”. The agency has obtained placement and care responsibility for the child, but the agency did not physically remove the child from his/her current residence.
- 5.14.3 There are four scenarios for meeting the living with specified relative and removal criteria. They are the following:
  - 5.14.3.1 The agency removed the child from a parent or a specified relative who had legal custody of the child.
    - 5.14.3.1.1 Removal home is the home of the parent, or specified relative who had legal custody of the child.
    - 5.14.3.1.2 Date of removal is the date the agency removed the child.

Case Example: The child was living with mother at the time the agency removed the child from the mother’s home on December 12, 2010 via a court order. The mother’s home is the removal home and December 12, 2010 is the removal date (physical removal).

- 5.14.3.2 The agency removed the child from a non-specified relative, but the child did live with a parent, or a specified relative who had legal custody, within the six (6) months prior to the eligibility month
  - 5.14.3.2.1 Removal home is the home of the parent, or specified relative who had legal custody, with whom the child resided within the six (6) months of the eligibility month.

5.14.3.2.2 Date of removal is the date the agency removed the child.

Case Example: The child had been living with friends for two months preceding the time police removed the child on May 13, 2010. The agency filed a temporary physical custody petition on May 14, 2010. Prior to living with her friends, the child was living with her parents until March 13, 2010. The parents' home is the removal home and May 13, 2010 is the removal date (physical removal).

5.14.3.3 At the time of initiating placement and care responsibility the child was living in the home of a non-parent specified relative and the agency left the child with the non-parent specified relative. The child did, however, live with a parent, or a different specified relative who had legal custody, within the six (6) months prior to the eligibility month.

5.14.3.3.1 Removal home is the home of the most recent parent or specified relative who had legal custody, with whom the child resided within the six (6) months prior to the eligibility month.

5.14.3.3.2 Date of removal is the date of the first judicial order removing the child or the date that all relevant parties sign the VPA.

Case Example: The child was living with his father until March 22, 2010, at which time he went to live with his aunt. On April 3, 2010 the agency placed the child into the aunt's home via a court order. The father's home is the removal home and April 3, 2010 is the removal date. (Constructive Removal)

5.14.3.4 The child resides in a three generation household comprised of the child, his/her parent(s), and his/her grandparent. Within six (6) months prior to the eligibility month, the child's parent leaves the home. The agency places the child into the grandparent's home via a court order or VPA.

5.14.3.4.1 Removal home is the recent parent or guardian with whom the child resided.

5.14.3.4.2 Date of removal is the date of the first judicial order removing the child or the date that all relevant parties sign the VPA.

Case Example: The child was living with her grandmother/guardian and mother, and on January 1, 2010 the mother leaves the home. The grandmother/guardian contacts the agency for assistance and the agency petitions the court on May 1, 2010. On May 3, 2010 the agency places the child into the grandmother/guardian's home via a court order. The child's mother is the removal home and May 3, 2010 is the removal date. (Constructive Removal)

#### 5.14.3.5 Special Circumstances:

- 5.14.3.5.1 If a finalized adoption disrupts and the child returns to out-of-home care placement and placement and care responsibility of the agency then the adoptive family's home is the removal home.
- 5.14.3.5.2 If an infant is taken directly from a hospital or prison after birth, and placed into out-of-home care placement, the mother's home would be considered the removal home, therefore, the child would meet the "living with a specified relative" criterion.
- 5.14.3.5.3 A child who is placed with his/her non-custodial parent can be considered in an out-of-home care placement if that placement type is determined appropriate by the agency with placement and care responsibility. No title IV-E claiming can occur during an out-of-home care placement with a non-custodial parent; however, if the child is moved to a title IV-E reimbursable out-of-home care placement then claiming of federal title IV-E funds can begin.

### 5.15 Determination of AFDC Group

- 5.15.1 The AFDC group is the grouping of persons from the removal home during the eligibility month whose income and resources must be considered when determining if the child meets the financial need (income and assets criteria) for AFDC relatedness.

AFDC group members must meet citizenship or qualified legal alien status requirements. Non-qualifying aliens must be considered involuntarily excluded from the AFDC group and a deemer to the group. See Section 6.26.3

- 5.15.2 If the child was removed from the parent's home, the AFDC group would include all of the following individuals residing in the removal home at the time the child was removed from the home:



- 5.15.2.1 Child
- 5.15.2.2 Birth or adoptive parents
- 5.15.2.3 Any minor siblings (birth, adoptive, or half) of the child who are under the age of 18
- 5.15.2.4 Any minor siblings of the child's siblings (e.g. the half sister of the child's half brother)
- 5.15.2.5 Parent (biological or adoptive) of any minor sibling (biological or adoptive) who is in the AFDC group.
- 5.15.2.6 Individuals designated as an Essential Person
  - 5.15.2.6.1 Must be related to an AFDC Group member. Qualified relationships include:
    - 5.15.2.6.1.1 Step-father or Step-mother
    - 5.15.2.6.1.2 Natural, legally adopted, half- or step-brother or sister
    - 5.15.2.6.1.3 Grandmother, grandfather, aunt or uncle, first cousin, nephew or niece, or any preceding generation denoted by the prefix grand-, great-, or great-great, and including those through adoption;
    - 5.15.2.6.1.4 Or the spouse of any of the above even after the marriage has ended by death, divorce, separation or annulment, and
  - 5.15.2.6.2 Be otherwise non-financially eligible with no minor or dependent 18 year old under their care (a separate AFDC group.)
  - 5.15.2.6.3 Must be providing benefits or services to the AFDC group, such as:
    - 5.15.2.6.3.1 Child care allowing the caretaker to work outside the home at least 30 hours per week;
    - 5.15.2.6.3.2 Care for an incapacitated family member in the home;

5.15.2.6.3.3 Child care enabling a caretaker to obtain training on a full time basis; or

5.15.2.6.3.4 Child care enabling a caretaker to attend high school or its equivalent on a full-time basis.

5.15.2.6.4 One exception is when the child under review is a pregnant minor or a minor parent. If it is beneficial to the pregnant minor or minor parent's AFDC group, they may be financially determined separately. (Note: The child of the minor parent must be included in the minor parent's AFDC group if the child was also residing in the home at the time of removal).

5.15.3 If the child was removed from the home of a specified relative other than the parents the AFDC group would include all of the following individuals residing in the home with the child at the time the child left the removal home:

5.15.3.1 Child, and

5.15.3.2 Any minor siblings (birth, adoptive, or half) of the child who are under the age of 18, and

5.15.3.3 Any minor siblings (biological/adoptive) of any minor sibling (biological/adoptive) who is in the AFDC group.

5.15.3.4 The parent (biological/adoptive) of any minor sibling (biological/adoptive/half) who is in the AFDC group.

5.15.3.5 Under some circumstances, a step-parent with no minor or dependent 18 year old under their care.

The same exception applies to pregnant minors and minor parents as listed above.

5.15.4 Any household members receiving SSI benefits are not counted as a member of the AFDC group. Additionally, the SSI benefits and any other income or assets of SSI recipient(s) are not counted in determining financial need.

5.15.5 Any children of the removed minor.

**Case example:** A pregnant minor last resided with her parents, with legal removal occurring after the minor gave birth. The baby should be included in the AFDC group.

- 5.15.6 Any minor who receives adoption assistance benefits may be included or excluded from the AFDC group, whichever is most beneficial to the group. If excluded, the adoptive sibling's income and assets are also excluded from the determination.
- 5.15.7 If the child under the agency's placement and care responsibility and under review is receiving adoption assistance do not count the child's income and resources when determining financial need. The child should, however, be counted as a member in the AFDC group size.

## **5.16 AFDC Relatedness - Deprivation Criteria**

Deprivation criteria must be met for a child to be initially determined title IV-E eligible. To be considered initially eligible the child must be deprived of the support of either one or both parents in the removal home in the month of the petition for the child's removal. Deprivation factors must exist in the home during the month of the removal petition, but prior to the child's removal. Any circumstances that occur in a household after the child has been removed from home cannot be used to meet the AFDC deprivation criteria.

For initial determinations in which a child is removed from a two-parent household on or after August 1, 2003, the child is considered to be deprived if the household meets the financial need requirements for AFDC eligibility.

The child meets deprivation if the child is deprived of the support of one parent in the removal home due to one of the following circumstances:

- Death,
- Continual Absence From the Home – One of parents is continually absent from the home when s/he:
  - is divorced;
  - is legally separated;
  - has abandoned the child;
  - is institutionalized;
  - is incarcerated
  - the marriage was annulled, or
  - for any other reason except military service.
- “Any other reason” means that the parent's absence interrupts or ends his/her parental role of providing maintenance, physical care, or guidance to the child; and the known or indefinite length of the absence is such that they can't be counted on for planning the child's present support or care.
- Incapacitated – The parent must be determined incapacitated by testimony and written documentation of a physician, hospital,

chiropractor, psychologist, or optometrist to be considered incapacitated. Verification of this incapacitation should be contained within the title IV-E eligibility case file.

- Disabled - To be considered disabled the parent must have had a disability determination application approved by the Social Security Administration and/or the Disability Determination Bureau. Verification of the parent's disability must be included in the title IV-E eligibility case file. Verification of both incapacitation and disability may be found in the CARES/CWW or FHiC/MMIS systems. Visual observations or case manager notes identifying incapacitation and/or disability are not acceptable forms of verification.
- Termination of Parent Rights – If there has been a termination of parental rights (TPR), voluntary or involuntary, the child is deprived from the date of the TPR.
- Unemployment of the Principal Wage Earner – For children entering care prior to August 1, 2003, if a child lives with both parents, the child is deprived of parental support when either parent is the principal wage earner and is employed less than 100 hours in the eligibility month or exceeds 100 for a particular month if the work is intermittent and temporary. Work may be considered temporary if the unemployed parent worked fewer than 100 hours in each of the preceding two months and is expected to work less than 100 hours in the following month. The principle wage earner is the parent who earned the greater amount in the 24 month period prior to the eligibility month.
- For children entering care after August 1, 2003, if a child lives with both parents, the child is deprived of parental support if the gross income of the AFDC group is less than 185% of the Federal Poverty Level, and the total adjusted income is less than the AFDC Needs Standard, and meets other financial need requirements as provided by Wisconsin's title IV-A State Plan on July 16, 1996.

## **5.17 AFDC Relatedness - Financial Need and Asset Limits**

5.17.1 Asset is defined as “a useful or valuable thing” that a person possesses or owns. An asset is determined by its equity value, which is the current market value minus any debts still owed on the asset. The maximum value of assets of the child's AFDC group must be less than \$10,000 for the child to meet the asset limit for the financial need criterion. Countable assets and exempted (not counted) assets are provided below:

5.17.1.1 Countable Assets Include, but are not limited to:

- Bonds;
- Credit Union Savings;
- Non-Home Real Property;
- Savings accounts;
- Checking accounts;
- Savings bonds;
- Stocks;
- Vehicles (the first \$1,500 of equity value is exempt for one vehicle);
- 401K accounts;
- Life Insurance Cash Value;
- Certificates of Deposit;
- Seller's Interest In a Land Contract or Mortgage; and
- Money Gifts Not Counted As Income.

5.17.1.1.1 If a child's assets have a total combined value of less than \$10,000, the resources shall be considered to have a total combined value of \$1,000.

5.17.1.2 Exempt Assets Include, but are not limited to:

- Inaccessible trusts (includes per capita tribal payments to children in out-of-home care placements);
- EITC for One Full Month after month of receipt;
- Burial plot (one per household member);
- Home of residence and surrounding acreage;
- Funds for relocation (Uniform Relocation Act);
- Household furnishings and clothing;
- Personal jewelry; and
- Farm and business inventories and property used to produce income.

5.17.2 The asset limit as of December 14, 1999 is \$10,000 due to the Chafee Foster Care Independence Act.

## **5.18 AFDC Relatedness - Financial Need and Income Standards**

Income available to a child must meet the AFDC relatedness income requirements in the eligibility month. This income is calculated utilizing countable earned and unearned income of the AFDC group and the deeming group. Earned and Unearned income information is used for the month it was received and not the month it was earned. If a check is received in May (the eligibility month) for work performed in March it is counted against the AFDC income standards for the month of May.

## 5.19 Overview of Income Standards

The countable earned and unearned income available to the child must not exceed the income limits for the child's AFDC group size. The AFDC & Deeming group's gross countable income is tested against 185% of the Federal Poverty Level (FPL).

If the AFDC group passes the gross income test the group is tested against Wisconsin's 100% AFDC Assistance Standard for the child's AFDC group size that was effective July 16, 1996. To meet the financial need income criterion the child's AFDC group's countable earned and unearned income after allowable deductions must not exceed the child's AFDC group's income limit.

## 5.20 Establishing the AFDC Income Review Period and Monthly Amounts

AFDC eligibility must be met in either the month the court proceeding containing the Contrary to the Welfare (CTW) language is initiated, or the month the voluntary placement agreement is signed. Therefore, AFDC eligibility must consider the child's household circumstances that exist *prior to* the day of the child's removal, and any familial or economic changes that occur *after* the child's removal may not be considered.

- 5.20.1 When the month of the court order containing CTW language is the same as the month of removal, the regular anticipated income (earned and unearned) available to the AFDC group during the time period between the first of the month and the day of the removal must be used to determine deprivation.

Case Example: A child is placed in foster care on **11/5** with a removal court order of "contrary to the welfare" on the same date, and the removal petition is filed on 11/17. Determination of deprivation is based on the AFDC household's circumstances during **November 1-5**.

- 5.20.2 When the eligibility month is different from and prior to the month of removal, then entire eligibility month must be used to determine the earned and unearned income amounts of the child's AFDC group.

Case Example: A child is placed in foster care on **12/5** with a removal court order of "contrary to the welfare" on the same date and the removal petition is filed on 11/17. Determination of deprivation is based on the AFDC household's circumstances during **November 1-30**.

- 5.20.3 When possible, the actual monthly income should be used. If the worker must convert income payments into a monthly amount use the methods described below:

- 5.20.3.1 Income received bi-weekly (paid every other week) or semi-monthly (paid twice a month) must be multiplied by 2;
- 5.20.2.2 Income received weekly must be multiplied by 4;
- 5.20.2.3 Income received quarterly (paid once every three months) must be divided by 3.

## **5.21 Countable Earned Income**

5.21.1 Earned income is income (in the month it was received) in cash or in-kind for which a person performs a service. Sources of countable earned income include, but are not limited to:

- Bonuses;
- In-kind income for work (e.g. shelter received for work);
- Longevity pay;
- Gross wages, salaries, tips (before taxes);
- Jury duty payments (over expense reimbursements);
- Worker's Compensation;
- Self-employment / Self-employment farming income;
- Severance pay;
- Huber payments paid directly to the removal home;
- Lump sum compensatory time;
- Net rental income from properties owned and managed;
- Student Assistantship or Internship (Not Work Study); and
- Union settlements.

## **5.22 Countable Unearned Income**

5.22.1 Unearned income is income (in the month it was received) received by an individual for which no service is performed. Sources of countable unearned income include, but are not limited to:

- Armed Forces pension or disability allotment;
- Child support (minus the first \$50 received per month);
- Alimony / Maintenance;
- Disability insurance (sick payments);
- Dividend payment;
- Income continuation payments;
- Income from relatives;
- Income deemed from legally responsible relatives;
- Inheritance payments;
- Interest, money payments;
- Land Contract payments

- Money from churches, charitable organizations, friends, lodges, or unions;
- Rental Income from properties owned (but not managed);
- Retirement or Pension (union, private, or government);
- Social Security benefits (excluding SSI payments);
- Striker’s benefits;
- Unemployment compensation;
- Veteran’s benefits;
- Tribal Per Capita Payments (first \$500 disregarded);
- Sick benefits;
- Profit sharing; and
- Cash gifts greater than \$30 per quarter.

## **5.23 Exempt Earned and Unearned Income**

5.23.1 Certain types of earned and unearned income are exempt (not counted) in determining if the child meets the financial need requirement for AFDC eligibility. Sources of exempt earned and unearned income include, but are not limited to:

- Supplemental Security Income (SSI);
- Repayments of a previous overpayment to the same income source;
- First \$500 of Tribal per capita payments;
- Reimbursements except for ordinary household expenses;
- Food programs, such as FoodShare, WIC, USDA food surplus, etc.;
- Disaster and emergency assistance payments;
- Student loans or grants administered by the U.S. Commissioner of Education;
- Foster Care payments;
- Adoption Assistance payments;
- Earned income (including financial aid) of full-time students under the age of 19 or part-time students under 19 who are employed less than 30 hours per week;
- Loans, including reverse equity loans, endorsed for repayment;
- Any Governmental rental, utility or housing subsidy;
- Kinship Care payments; and
- Wisconsin Works (W2) payments.

## **5.24 Developing the Deeming Group**

“Deeming” means determining the amount of the deeming group’s income to be included in the total gross income available to the AFDC group of the child under review. The deemed income is applied towards determining if the child meets the title IV-E eligibility criterion for financial need.



The “Deemer” means the person(s) whose income is deemed toward the child under review.

The “Deeming Group” means the grouping of person(s) not included in the child’s AFDC group and for whom the Deemer is responsible.

#### 5.24.1 Pregnant Minor / Minor Parent

Some persons in the household may not qualify to be in the child’s AFDC group or persons may be excluded from the AFDC Group of a pregnant minor or minor parent if it will allow the child to qualify for title IV-E eligibility. However, if the person excluded from the AFDC group has a legal responsibility to support someone in the AFDC group some of his/her income must be considered when determining the child’s title IV-E eligibility. This individual is the Deemer.

5.24.1.1 In the case of a minor parent or pregnant minor who is being tested as a separate group, the deeming group would include the parent (biological/adoptive) who is residing in the removal home of the minor parent/pregnant minor.

5.24.1.2 The deeming group would include everyone in the removal home who is not in the child’s AFDC group and for whom the deemer(s) are legally responsible. This includes themselves, their spouse, and their minor children (even if any of the above individuals were on SSI).

5.24.1.3 Only those individuals who are legally responsible for the minor parent or pregnant minor would have their income included in the deemed income calculation.

5.24.1.4 Women in their 8<sup>th</sup> or 9<sup>th</sup> month of pregnancy are entitled to an additional \$71 in their need standard.

**For example: Amy Dear was removed from her home on January 1, 2010. The removal household included Amy (who is a pregnant minor in her 6<sup>th</sup> month), her biological mother, and Amy's three (3) minor siblings. Amy's mother is employed and earned \$1,000 in the eligibility month. One of Amy's siblings receives \$450 in social security payments each month. There is no other income in the home and they reside in Grant County.**

If we did not create a deeming group the AFDC group would include Amy, her mother, and three (3) siblings. The 100% Standard of Need would be filled out as follows:

Total Countable Gross Earned Income	=	\$ 1000.00 (mom's income)
Subtract \$90 for each worker in AFDC group	=	\$ 910.00
Subtract \$30 disregard for each worker in AFDC group	=	\$ 880.00
Multiply Subtotal by .666	=	\$ 586.08
Subtract ACTUAL dependent care costs (\$0)	=	\$ 586.08
Add total countable unearned income (\$450, sibling)	=	\$ 1036.08
Subtract court ordered child support/alimony (\$0)	=	\$ 1036.08
<b>Total Adjusted Income</b>	<b>=</b>	<b>\$ 1036.08</b>

**The AFDC group is 5.  
In Grant County the 100% Standard of Need for five (5) people is \$861.00. \$1036.08 is larger than \$861.00 therefore the case would be ineligible for Title IV-E reimbursement.**

If, however, we did create a deeming group, the deemer would be Amy's mother. The deeming group would include Amy's mother and Amy's three (3) siblings. The deeming worksheet would be completed as follows:

Gross Monthly Countable Earned Income	=	\$ 1000.00 (mom's income)
Subtract \$90 work expense per employee	=	\$ 910.00
Subtract ACTUAL Dependent Care Expenses (\$0)	=	\$ 910.00
Add total countable unearned income (\$0)	=	\$ 910.00
Subtract court ordered child support/alimony (\$0)	=	\$ 910.00
Subtract 100% Need Standard (deeming/AFDC group)	=	\$ 161.00 (-749.00)
<b>Total Deemed Income</b>	<b>=</b>	<b>\$ 161.00</b>

The 100% Standard of Need worksheet would be filled out as follows and would include only Amy.

Total Countable Gross Earned Income	=	\$ 000.00
Subtract \$90 for each worker in AFDC group	=	\$ 000.00
Subtract \$30 disregard for each worker in AFDC group	=	\$ 000.00
Multiply Subtotal by .666	=	\$ 000.00
Subtract ACTUAL dependent care costs (\$0)	=	\$ 000.00
Add total countable unearned income (\$161 deemed)	=	\$ 161.00
Subtract court ordered child support/alimony (\$0)	=	\$ 161.00
<b>Total Adjusted Income</b>	<b>=</b>	<b>\$ 161.00</b>

**The AFDC group is one (1).  
In Grant County the 100% Standard of Need for one (1) person is \$301.00. \$161.00 is less than \$301.00, therefore if all other Title IV-E criteria were met the case would be eligible for Title IV-E Reimbursement.**

## 5.24.2 Stepparent Deeming

When a child is removed from a home that includes a stepparent who has not been designated an essential person, the worker must determine if income must be deemed from the stepparent. The only instance in which a worker would deem income from a stepparent is when the child's parent is a member of the child's AFDC group **and** the child's parent and stepparent have a child in common.

5.24.2.1 The deeming group number would include the stepparent and their dependent(s) / children who were residing in this removal home and who are not required to be a member of the child under review's AFDC group. The children are not legally responsible for any member of the child under review's AFDC group, therefore, their income would not be included in the deeming calculation.

5.24.2.2 Stepparent deeming does not apply:

5.24.2.2.1 If the stepparent is designated as an essential person (See Determination of AFDC Group, 5.15.2.6.) and included as a member of the AFDC group.

5.24.2.2.2 If the stepparent must be included in the child under review's AFDC group because of a legally responsible relative relationship to a child who is a mandatory member of the AFDC group. In this circumstance the stepparent's income would be included in the AFDC group determination and would not be deemed.

5.24.2.2.3 Another circumstance in which the worker would not deem from the stepparent is when the parent of the child under review is on SSI or is not residing in the removal home. Unless the stepparent is designated as an Essential Person, no income or assets of the stepparent would be deemed to the group. The stepparent is not legally responsible for anyone in the AFDC group since their spouse (the biological / adoptive parent) is either excluded from the group due to receipt of SSI or is absent from the home.

## 5.25 Deeming Income

5.25.1 The following steps should be completed to determine the deemed income amount in the worksheet provided below:

- 5.25.1.1 Step 1 – Determine the deemers’ countable gross earned income in the eligibility month.
- 5.25.1.2 Step 2 – Subtract a maximum of \$90 earned income deduction from the deemers’ wages.
- 5.25.1.3 Step 3 – Subtract dependent care expenses paid by a deemer for a dependent that is a member of the deeming group. (Up to \$200 is allowed for dependents under the age of 2; up to \$175 is allowed for dependents 2 years of age or older.)
- 5.25.1.4 Step 4 – Add the deemers’ countable unearned monthly income.
- 5.25.1.5 Step 5 – Subtract any court ordered child support and alimony and any payments by the deemer to support someone who is or who could be claimed for Federal income tax purposes and who is not in the household.
- 5.25.1.6 Step 6 – Determine the group size for the deeming group. For any person in the deeming group who is receiving SSI their income is not considered, however, they should still be counted in the deeming group’s size per the AFDC Handbook Deeming Unit, 12.2.31.8.
- 5.25.1.7 Step 7 - Subtract the 100% Standard of Need amount for the deeming group’s size. (Refer to Appendix A: Wisconsin’s 100% AFDC Standard of Need effective July 16, 1996.) Women in their 8<sup>th</sup> or 9<sup>th</sup> month of pregnancy are entitled to an additional \$71 in their need standard
- 5.25.1.8 Step 8 – The total remaining (“Total Deemed Income”) is the income to be deemed to the child and is added as unearned income available to the child.

### 5.25.2 Deeming Worksheet Examples

<u>Deeming Income Worksheet</u>	
Gross Monthly Countable Earned Income	\$
Subtract \$90 Work Expense (per employee)	-\$
Subtotal	\$
Subtract Dependent Care Expenses	-\$
Subtotal	\$
Add Countable Unearned Income	-\$
Subtotal	\$
Subtract Child Support/Alimony	-\$
Subtotal	\$
Subtract 100% Need Standard (For Deeming Group's AFDC group)	+\$
<b>Total Deemed Income*</b>	<b>\$</b>
*Total deemed income is the portion of the income that must be included as unearned income to the child under review when determining if the child meets financial need.	

Example: Marilyn White was residing with her mother Jane, her stepfather Norm, her full sibling Emily, and her half sibling Harry. Marilyn's step-father, Norm, has a son, George, from a previous relationship. Marilyn's stepfather earned \$1,000 in the eligibility month. Marilyn's step-brother, George, received \$350 in social security benefits in the eligibility month. There is no other income to the household. The family resided in Monroe County.

Marilyn's AFDC group would include Marilyn, her mother Jane, her full sibling Emily, and her half sibling Harry. Norm, Marilyn's stepfather, would not be included in the AFDC group because he has no children related to Marilyn. The deeming group would include Norm and his son, George.

The Deeming Group worksheet would be completed as follows:

Gross Monthly countable Earned Income = \$ 1000.00  
 Subtract \$90 for each worker in AFDC group = \$ 910.00  
 Subtract Dependent Care Expenses (\$0) = \$ 910.00  
 Add Countable Unearned Income (\$0) = \$ 910.00  
 Subtract court ordered child support/alimony (\$0) = \$ 910.00  
 Subtract 100% Need Standard (For Deeming Group's AFDC Group) (\$533) = \$377.00  
**Total Deemed Income = \$ 377.00**

The 100% Standard of Need worksheet would be completed as follows:

Total Countable Gross Earned Income = \$0.00  
 Subtract \$90 for each worker in AFDC group = \$0.00  
 Subtract \$30 disregard for each worker in AFDC group = \$0.00  
 Multiply Subtotal by .666 = \$ 0.00  
 Subtract ACTUAL dependent care costs (\$0) = \$0.00  
 Add total countable unearned income (\$377.00 deemed) = \$377.00  
 Subtract court ordered child support/alimony (\$0) = \$377.00  
**Total Adjusted Income = \$ 377.00**  
**The AFDC Group is five (5).**

In Monroe County the 100% Standard of Need for five (4) people in **\$749.00**

\$377.00 is less than \$749.00, therefore, if all other criteria were met the case **would be eligible** for Title IV-E reimbursement.

### 5.25.3 Deeming and Involuntary Exclusions

5.25.3.1 If a mandatory AFDC group member is excluded from the group because of their non-qualifying alien status, they are involuntarily excluded. Only the following deductions from their income are allowed:

1. \$102 for 1 legally responsible relative or spouse; or
2. \$204 for both; and
3. \$102 for each non-qualifying alien child of the legally responsible relative.

Deem the remainder of the legally responsible relative's income to the AFDC group as unearned income.

## 5.26 185% Gross Income Test

5.26.1 Before an AFDC group can be tested for the Standard of Need Test, it must be tested against the Gross Income Limit of 185% of the Federal Poverty Level (FPL) as in effect on July 16, 1996.

5.26.2 The worker must determine the members of the AFDC group (in the removal home) to determine the AFDC group size and the total income of the AFDC group and Deeming group members that is to be counted as available to the child under review.

5.26.3 The following steps should be taken when completing the gross income worksheet:

5.26.3.1 Step 1 – Earned Income – provide the total monthly earned income of the child's AFDC group members (including the child).

5.26.3.2 Step 2 - Add the group's total monthly unearned income. Deemed income would be included in the total amount of monthly unearned income similar to child support payments.

5.26.3.3 Step 3 - If the income is less than the Gross Income Limit of 185% FPL for this group size (See Appendix A), the group meets the income requirement to be tested against the 100% Standard of Need Test. Women in the 8<sup>th</sup> or 9<sup>th</sup> month of pregnancy are entitled to an additional \$71 in the Gross Income Limit for their AFDC group.

### 5.26.3.4 Gross Income Worksheet Example:

<u>Gross Income Worksheet</u>	
Gross Monthly Countable Earned Income	\$
Add Countable Unearned Income	-\$
Subtotal	\$
Subtract 185% Gross Income Limit (For child's AFDC group)	-\$
<b>If there is a positive balance, the income is over the limit</b>	<b>\$</b>

## 5.27 100% Standard of Need Income Test

- 5.27.1 The worker must determine the members of the AFDC group (in the removal home) to determine the AFDC group size and the total income that is to be counted as available to the child.
- 5.27.2 The child's AFDC group must pass the 100% Standard of Need Income Test for determining if the child meets the 100% AFDC Need Standard for financial need under the AFDC relatedness criteria. Women in the 8<sup>th</sup> or 9<sup>th</sup> month of their pregnancy are entitled to an additional \$71 in their need standard.
- 5.27.3 The child's AFDC group must pass the 100% Standard of Need Income test for determining if the child meets the 100% Standard of Need as of July 16, 1996. This is determined by subtracting allowable deductions from the countable earned income (not less than zero) and adding this adjusted earned income to the countable unearned income and any deemed income.
- 5.27.4 The following steps should be followed when completing the income worksheet:
- 5.27.4.1 Step 1 – Earned Income – provide the total monthly earned income of the child's AFDC group members.
  - 5.27.4.2 Step 2 – Work Allowance – Subtract a maximum of \$90 work expense allowance from each employed person's income earnings in the AFDC group.
  - 5.27.4.3 Step 3 – \$30 and 1/3 Income Disregards – Subtract a maximum of \$30 from each employed person's earnings and subtract 1/3 of the gross adjusted earned income.
  - 5.27.4.4 Step 4 – Dependent Care – If a person in the AFDC group is paying for dependent care for a child or an adult member of the AFDC group because they are elsewhere due to employment, the

dependent care expenses may be deducted. This deduction may only be applied if there is an actual expense. The amount of the expense that may be deducted is limited to:

5.27.4.4.1 \$175 for dependents over age 2, and

5.27.4.4.2 \$200 for dependents age 2 or under.

In some instances the amount of allowable deductions may allow a family, who would otherwise not qualify, to meet the AFDC income guidelines. Therefore it is imperative that these expenses be recorded on the DCF-F (CFS-205) form.

5.27.4.5 Step 5 – Add the child’s AFDC group’s total monthly unearned income. Deemed income would be included in the total amount of monthly unearned income similar to child support payments. If child support is being received the worker must subtract up to the first \$50 received per month. No more than \$50 in a month can be deducted from child support.

5.27.4.6 Step 6 – Subtract any court ordered child support and alimony (even if not being paid) and any payments to support someone who is or who could be claimed for Federal income tax purposes and who is not in the household.

5.27.4.7 Step 7 – If the income is less than the 100% AFDC Need Standard the child meets the income requirement for AFDC eligibility. Women in their 8<sup>th</sup> or 9<sup>th</sup> month of pregnancy are entitled to an additional \$71 in the need standard for their AFDC group



#### 5.27.4.8 Worksheet Example

<u>Net Income Worksheet</u>	
Gross Monthly Countable Earned Income	\$
Subtract \$90 Work Expense (per employee)	-\$
Subtotal	\$
Subtract earned income disregard of \$30 & 1/3	-\$
Subtotal	\$
Subtract Dependent Care Expenses	-\$
Subtotal	\$
Add Countable Unearned Income	-\$
Subtotal	\$
Subtract Court Ordered Support/Alimony	-\$
Subtotal	\$
<b>Total Income</b>	<b>\$</b>
Subtract 100% Need Standard (For AFDC group)	+\$
<b>If Total Income exceeds 100% Need Standard, Group is ineligible.</b>	<b>\$</b>

5.27.5 Verification – All income and deductions must be reviewed for accuracy. Where verification is made available in the form of a document, copy the document and retain it in the title IV-E case file record. Verification can consist of pay statements, W-2 forms, employment computer checks, narrative from case managers, and additional information obtained from agency responsible for the placement and care of the child in out-of-home care placement.

5.27.6 The State eligibility, data collection and reporting systems will be the primary resource for eligibility determinations. In most instances, these systems will provide sufficient information to complete a determination. Further exploration is not necessary unless the systems show contradictory information or further clarification is necessary. Examples of these systems and the data they provide are:

5.27.6.1 FHiC/MMIS –SSI Receipt

5.27.6.2 CWW– FoodShare, Child Care, W2 Eligibility, and SSI eligibility

5.27.6.3 CARES - Unemployment Compensation

5.27.6.4 DWD – Wage Record

5.27.6.5 KIDS -- Child Support income or expense, paternity, and court orders

5.27.7 The DCF-F-CFS0205-E form must be attached to the DCF-F-CFS0201-E form and maintained in the child’s title IV-E case record

## **6. Initial Title IV-E Reimbursability Determination**

The determination of title IV-E reimbursability of children under the placement and care responsibility of a county agency qualifies the State and county to obtain federal title IV-E funding for maintenance costs (room and board) associated with the child. At the time of the initial title IV-E eligibility determination if a child was determined to be title IV-E eligible there are only three (3) other criteria the child must meet to be title IV-E reimbursable at the initial determination.

### **6.1 Title IV-E Reimbursability**

The title IV-E reimbursability criteria that must be met at initial determination if a child has been determined title IV-E eligible are the following:

- 6.1.1 Child resides in a title IV-E reimbursable out-of-home care placement;
- 6.1.2 For those children under the agency's placement and care responsibility through a voluntary placement agreement (VPA), a contrary to the welfare (CTW) judicial finding must be obtained in a court order prior to the expiration of the VPA but no later than 180 days after the removal date; otherwise, the child will only be title IV-E eligible / reimbursable for the VPA period up to the first 180 days; and
- 6.1.3 Child is not receiving SSI benefits. If the child receives SSI benefits, the child cannot be title IV-E reimbursable. Children who receive SSI benefits are title IV-E eligible only.

### **6.2 Out-of-Home Care Placement Criteria**

- 6.2.1 Out-of-home care placement facilities must be in compliance with Wisconsin's licensure standards in order to be title IV-E reimbursable. Claiming can begin in the month in which all licensing requirements are met, but cannot continue beyond 60 days if the license has not been issued. If the license issuance is delayed beyond 60 days, claiming must cease after 60 days until the license is issued. The information needed includes receipt of the results of a criminal background check and other appropriate requirements of Chapter 56, DCF Admin. Code.
  - 6.2.1.1 Federal requirements limit Wisconsin's title IV-E Administrative claiming ability for potential relative out-of-home care placements to the lesser of 12 months or the average length of time to license a foster home in Wisconsin. The average length of time for full foster home licensure in Wisconsin is ten (10) months. Wisconsin may claim federal title IV-E administrative funds for ten (10)

months while a child is placed with a relative who is in the process of becoming a licensed foster home.

- 6.2.2 Title IV-E reimbursement for board and care is available in any month that a child is placed in an out-of-home care placement facility that is licensed, even if the home is licensed for a portion of the month. However, reimbursement is not available if the child is placed in an out-of-home care placement facility that is not licensed at any point in the month. Even though title IV-E maintenance claiming is not allowed, the State may claim title IV-E administrative funds when the child is title IV-E eligible but is not placed in a reimbursable facility for part of a month.

When a child is placed in an unlicensed relative home, changes to Section 472 of the Social Security Act only allows limited claiming of title IV-E Administrative costs. Title IV-E administrative claiming can only occur for a period, not exceeding ten (10) months, while the relative provider is in the application process of becoming a licensed foster home.

- 6.2.3 Reimbursable Out-of-Home Care Placements – There are five (5) types of providers that meet the law’s definition of a Title IV-E reimbursable facility. The types of providers are as follows:

6.2.3.1 A foster home or treatment foster home licensed by a public child welfare agency, tribe, or non-profit agency.

6.2.3.2 Foster Care maintenance payment is made directly by the child welfare agency to the foster home.

6.2.3.3 A private group home or residential care center (RCC) licensed by the state.

6.2.3.4 Shelter facilities.

6.2.3.5 Payments to foster parents and treatment foster parents associated with a for-profit child placing agency are now considered title IV-E reimbursable even if the foster care payment is sent directly to the foster or treatment foster parents.

- 6.2.4 Non-Reimbursable Out-of-Home Care Placements – The following types of providers are not considered to be title IV-E reimbursable facilities:

6.2.4.1 Detention and correctional facilities

6.2.4.2 Medical facilities (i.e. hospitals, nursing homes, mental health treatment)

- 6.2.4.3 Forestry camps
- 6.2.4.4 Training and Boarding Schools
- 6.2.4.5 Secured / Locked facilities (including Type II RCC's)

Children placed in the above types of facilities are not considered to be title IV-E reimbursable for Federal maintenance or administrative funds during their out-of-home care placement in that facility. Upon return to a title IV-E reimbursable out-of-home care placement facility, title IV-E children will once again become eligible for federal title IV-E reimbursement.

Section 472 of the Social Security Act allows for not more than one calendar month of title IV-E Administrative claiming for an otherwise title IV-E eligible child transitioning from an unlicensed or unapproved facility to a licensed or approved foster family home or RCC. Wisconsin does not currently claim federal title IV-E funds for a period of one calendar month for a child who is placed in a non-reimbursable facility and transitioning into a licensed foster family home or RCC facility.

### **6.3 Receipt of Supplemental Security Income (SSI) benefits**

- 6.3.1 Federal policy does not prohibit states from claiming title IV-E foster care (or adoption assistance) on behalf of a child who is simultaneously receiving SSI benefits. If a child is eligible for both title IV-E maintenance payments and SSI, the child's SSI payment should be reduced dollar for dollar.
  - 6.3.1.1 If the amount of title IV-E is less than the amount of SSI, the SSI payment should be applied to the cost of out-of-home care placement, reducing the amount of the maintenance payment claimable for title IV-E purposes.
  - 6.3.1.2 If the amount of title IV-E is greater than the amount of SSI, the SSI should be suspended, rather than terminated, with the Social Security Administration while the child is in out-of-home care placement and expected to remain in placement for an extended period of time.
- 6.3.2 It is permissible to apply for either title IV-E foster care maintenance payments or SSI payments without applying for both; however this should be an informed decision made by both the county agency and Social Security Administration. Both agencies should keep in mind the best interests of the

child. Suspending a child's SSI benefits could have an adverse effect on their future SSI eligibility.

## **6.4 Trial Reunification**

6.4.1 A trial reunification occurs when a child in out-of-home care placement is returned to their parent or other primary caregivers for a limited and specified period of time for the purpose of determining the appropriateness of reunification while still under court-ordered supervision.

6.4.1.1 A single trial reunification cannot exceed 150 days without a court order, though multiple trial reunifications can occur within the same episode. Back-to-back trial reunifications (e.g., 90 days followed by another 60 days) are considered to be a single trial reunification so long as the combined total duration does not exceed 150 days.

6.4.1.2 Because a trial reunification is considered an out-of-home placement, all permanency plan requirements in Wis. Stats. 48.38 and 938.38 must be completed.

6.4.1.3 Children in a trial reunification placement continue to be eligible for Medicaid services.

6.4.2 For title IV-E purposes, a trial reunification is a categorically non-reimbursable placement type. A child's title IV-E eligibility status is retained for the duration of the trial reunification so long as all other eligibility criteria are met, with the following exceptions:

6.4.2.1 If the court order providing placement and care responsibility expires and is not extended before the end of the trial reunification period, the child is ineligible as of the date that placement and care responsibility expires. Any subsequent removal from the home would be considered the start of a new title IV-E episode.

6.4.3 The DCF Allowable Cost Policy Manual allows continuing payments to the out-of-home care placement provider for up to 14 days to maintain the placement of a child who is in a trial reunification.

## **7. Title IV-E Re-determinations**

A change in federal title IV-E policy has eliminated the need for states to re-determine a child's AFDC eligibility on an annual basis. Therefore, the title IV-E reimbursability requirements that must be verified annually are:

- REPP finding (discussed in section 7.3);
- Licensing status of provider (section 7.4);
- SSI status of child (section 7.5); and
- Ongoing Placement and Care responsibility (section 7.6).

Title IV-E reimbursability may fluctuate across the duration of an episode. A child may lose and regain title IV-E reimbursability depending on changes in the circumstances in the out-of-home care placement, or in obtaining the required judicial findings. The loss of title IV-E reimbursability in one month does not deprive the child of title IV-E reimbursability in the next month nor does it affect the child's title IV-E eligibility status.

## **7.1 Ongoing Eligibility**

7.1.1 The child must continue to be title IV-E eligible in order to be title IV-E reimbursable. Title IV-E eligibility is initially determined at the time the child entered the placement and care responsibility of the county agency. This initial title IV-E determination was based on the child's situation and the information provided to the title IV-E eligibility units at that time. Once the child is determined to be title IV-E eligible the child will continue to be title IV-E eligible for that out-of-home care placement episode and can be claimed for title IV-E administrative funding. Actual title IV-E claiming will depend if the child is in a reimbursable out-of-home care placement. If a child is placed with an unlicensed relative they are still considered to be title IV-E eligible for the duration of the out-of-home care episode even though no title IV-E claiming may take place. If the child's placement changes to a reimbursable placement then federal title IV-E claiming may commence.

7.1.2 There are four circumstances that would cause a child to no longer be title IV-E eligible once a child was initially determined title IV-E eligible. Once a child loses title IV-E eligibility the child cannot be title IV-E eligible during the remainder of the current out-of-home care placement episode. The circumstances that could affect title IV-E eligibility are:

7.1.2.1 The child no longer meets the title IV-E age requirements.

7.1.2.2. The agency's placement and care responsibility for the child has been terminated by court order.

7.1.2.3 The child came under the agency's placement and care responsibility as the result of a voluntary placement agreement (VPA) and the agency failed to obtain a court order with a contrary to welfare finding within 180 days after the child's removal from the home under the VPA or prior to the VPA expiration date; or

- 7.1.2.4 The child was on a trial reunification (trial home visit) status for longer than 150 days. The child would lose title IV-E eligibility at the end of 150 days.

### 7.1.3 Trial Reunification (Trial Home Visit)

## 7.2 On-going Reimbursability

Title IV-E reimbursability may fluctuate from month to month. A child may lose and regain title IV-E reimbursability depending upon the following changes:

- 7.2.1 Child resides or no longer resides in a title IV-E reimbursable out-of-home care placement;
- 7.2.2 Child is/is not receiving SSI benefits;
- 7.2.3 Agency Placement and Care responsibility for the child lapses or is reestablished;
- 7.2.4 The presence or absence of a judicial finding of “reasonable efforts to achieve the goal(s) of the child’s permanency plan” (REPP) within twelve (12) months after the child’s removal and every twelve (12) months thereafter from the last REPP finding; or
- 7.2.5 The child begins or ends a trial reunification.

The loss of title IV-E reimbursability does not deprive the child of future title IV-E reimbursability once the required criteria are met again. Nor does the child’s loss of title IV-E reimbursability for one month affect the child’s eligibility for future title IV-E administrative claiming.

## 7.3 Reasonable Effort to Achieve the Goals of the Permanency Plan Criteria

- 7.3.1 This requirement does not apply for children who entered care through a voluntary placement agreement (VPA), even after the VPA has expired and a CTW finding has been made.
- 7.3.2 There must be a judicial finding at least once every twelve (12) months from the date of removal and every twelve (12) months thereafter following the last judicial determination that stated reasonable efforts were made to achieve the goals of the permanency plan. This is true whether the permanence goal is reunification, adoption, guardianship, subsidized guardianship, placement with a fit and willing relative, or another planned permanent living arrangement. The policy effective date for meeting this requirement is March

27, 2000 for all children entering out-of-home care placement through a court order on or after that date. Reasonable efforts findings for children in out-of-home care placement prior to March 27, 2000 were due within twelve (12) months after the effective date of March 27, 2000.

- 7.3.3 If there is no “reasonable efforts” judicial finding to achieve the goals of the permanency plan within twelve (12) months from the date the child was removed from the home and every twelve (12) months from the previous finding, then the child is not title IV-E reimbursable until such time that the finding is obtained. If the reasonable efforts language related to the permanency plan is not in the court order, the child is not title IV-E reimbursable until the language is obtained in a court order. For example, if the judicial finding is not obtained until sixteen (16) months after the child’s removal, the child would lose Title IV-E reimbursability after the 12<sup>th</sup> month, but could regain Title IV-E reimbursability once the judicial finding was obtained in the 16<sup>th</sup> month. Title IV-E reimbursability would end the last day of the 12<sup>th</sup> month and begin on the first day of the 16<sup>th</sup> month. The next judicial finding would be due twelve (12) months from the date of the last judicial finding.
- 7.3.4 Affidavits or nunc pro tunc orders are not accepted for meeting the reasonable efforts to achieve the goals of the permanency plan judicial finding requirement. Court orders solely referencing State Statutes are not acceptable for meeting this judicial finding requirement.
- 7.3.5 For title IV-E purposes, if there is an interruption in out-of-home care placement such as a placement in a secure correctional facility, detention facility, or hospital, the title IV-E eligibility REPP clock will continue to tick during the duration of the child’s stay in such a facility. This may be a different approach than that of the agency and local court system in scheduling permanency plan reviews. Both the local agency and court system will likely pause the REPP clock in determining when the next permanency plan hearing is due. Per federal regulations if the title IV-E eligibility REPP clock is paused when a child enters one of the previously mentioned facilities their title IV-E eligibility would have to be re-determined when the child goes back into a title IV-E reimbursable facility. By letting the title IV-E REPP clock continue to run the State can continue to claim title IV-E funds as long as no gaps in the REPP findings occur. If a REPP gap does occur, then claiming will cease until such time that a new REPP finding is obtained.

**Case Example:** The child was placed in a licensed foster home on 7/15/09 and a permanency plan was developed within the 60 days of placement. Due to actions of the child on 10/20/09 the child was placed in a correctional facility for four (4) months and the county agency stopped its 12 month permanency plan clock at three (3) months. When the child was transitioned back to a group home on 2/15/10 the county agency once again started its permanency plan clock.

Federal title IV-E requirements insist that the REPP clock continues to tick even when a child



is in a correctional placement in order to continue title IV-E eligibility. Therefore when this child gets out of the correctional placement according to the title IV-E REPP clock they are on month seven (7) and are due for an REPP finding in July 2010. If an REPP finding is not made by the end of July 2010 title IV-E claiming will cease until a positive REPP finding is made. The title IV-E staff will not be calling the counties to get the REPP finding made. We understand that the REPP clocks are different and will wait until the county agency and court get the REPP finding.

If we stopped the title IV-E REPP clock when the county agency did we would have to do a new eligibility determination when the child was transitioned back to a foster home setting.

## 7.4 Out-of-Home Care Placement in a Title IV-E Reimbursable Facility

The child must be in a title IV-E reimbursable out-of-home care placement as defined in this manual. If the child is not residing in a title IV-E reimbursable facility the child cannot be title IV-E reimbursable. Once the child enters a title IV-E reimbursable facility, the child's title IV-E reimbursability may continue if all other criteria are met.

## 7.5 Consideration of SSI Benefits

Per section 6.1.3, a child receiving SSI benefits is not title IV-E reimbursable; assuming other eligibility criteria are met, a child receiving SSI would be title IV-E eligible only. If a child's SSI status changes during an out-of-home care episode, the child's eligibility and reimbursability status should be redetermined as of the date of the status change.

## 7.6 Placement and Care

Placement and care responsibility must be maintained throughout the duration of the episode. There are three scenarios under which placement and care can end:

- 7.6.1 If placement and care authority is *actively ended* via a court order, the child is ineligible for the duration of the episode as of the day after the effective date of the court order ending placement and care authority.
- 7.6.2 If placement and care *expires* or *lapses* due to inactivity by the court, the child is eligible – not reimbursable due to “lapsed placement and care” from the last date of the month in which placement and care responsibility was valid until the first date in which placement and care is fully re-established (see section 7.5.3).

**Case example:** placement and care expires on 2/25, and is re-established on 4/3. The child would be eligible – not reimbursable between 3/1 and 3/31.

- 7.6.3 Per section 5.1.1.1, establishing placement and care responsibility requires a court order or voluntary placement agreement contains the requisite “placement and care” language *plus* the agency’s name and/or a checked box next to the requisite language. If the order contains the requisite “placement and care” language but lacks the additional authorizing criteria, the child would be considered eligible – not reimbursable due to “incomplete placement and care” information until the month in which the placement and care language is corrected.

**Case example:** placement and care expires on 2/25 and is re-established on 4/3, but the court order lacks the additional authorizing criteria (checkbox or the agency name). A new order containing these additional authorizing criteria is issued on 5/5. The child would be eligible – not reimbursable between 3/1 and 4/30.

## 8. Minor Parent and Infant in Care

### 8.1 Claiming for Minor Parent and their Infant

The Title IV-E program allows a state to claim title IV-E reimbursement for the costs of an infant living in the same out-of-home care placement as its minor parent. There are two (2) ways in which this can occur:

- 8.1.1 If the minor parent has been determined title IV-E eligible and reimbursable, the added cost of care for the infant living in the same out-of-home care placement can be reimbursed through the mother’s title IV-E status via an exceptional foster care payment amount determined by the agency. The infant does not have a separate title IV-E status since there is no separate judicial removal order placing the child into out-of-home care placement and the agency does not have placement and care responsibility for the child. In this situation, the cost of care for both the minor parent and the infant will be contained in one payment to the provider and the infant’s cost of care is assigned to the mother’s cost of care. The infant would also be eligible for Medicaid benefits.
- 8.1.2 If a minor mother and her infant are both in the same foster family home and each have been determined eligible for title IV-E, it is possible to claim administrative and maintenance funds for both the minor mother and her infant. The fact that the teen mother and her infant are in the same foster home does not mean that they have been “reunified”. The foster parent has supervision of the infant and is responsible for day to day supervision. It is imperative in this situation that the agency has placement and care responsibility for both the infant and the teen mother.
- 8.1.3 If the infant is removed from the minor parent and the agency places the infant in a separate out-of-home care placement and has placement and care

responsibility of the infant, a title IV-E determination should be conducted on the infant. The infant's title IV-E eligibility would be done the same as any other infant being removed from his / her parent.

## **9. Title IV-E Claiming Dates**

### **9.1 Title IV-E Eligibility Effective Date**

- 9.1.1 Initial Eligibility Determination - The title IV-E effective date is the first day of the month in which all of the eligibility criteria are met including the child having been removed from the home. A child who is title IV-E eligible during any part of the month is eligible for the entire month; however, claiming cannot occur until the child is removed from the removal home.
- 9.1.2 Ongoing Eligibility Determination – title IV-E can end for any of the following reasons:
  - 9.1.2.1 The child no longer meets the title IV-E age requirements;
  - 9.1.2.2 The agency's placement and care responsibility for the child has been terminated by court order;
  - 9.1.2.3 The child came under the agency's placement and care responsibility as the result of a voluntary placement agreement (VPA) and the agency failed to obtain a court order with a contrary to the welfare finding within 180 days after the child's removal from the home under the VPA or prior to the VPA expiration date; and
  - 9.1.2.4 The child was on a trial reunification (trial home visit) for longer than 150 days. The child would lose title IV-E eligibility at the end of 150 days.

If any of these situations occur, title IV-E claiming should cease immediately. Claiming cannot continue for the balance of the month.

### **9.2 Title IV-E Reimbursable Effective Date**

- 9.2.1 The title IV-E reimbursable effective date is the first day of the month in which all of the title IV-E reimbursable criteria are met, including having been determined initially title IV-E eligible at the time the child entered the agency's placement and care responsibility provided the child has been removed from his/her home. With a few exceptions a child who is reimbursable during any part of the month is reimbursable for the entire month. The following are the exceptions to this rule:

- 9.2.1.1 The child is removed from the home in the same month in which reimbursability would begin. Reimbursability cannot occur until the child is removed from the home.
- 9.2.1.2 The child is placed in a non-reimbursable facility and then goes into a reimbursable facility in the same month (or vice versa). Reimbursability can only be claimed for the period of time that the child is in a reimbursable facility.
- 9.2.1.3 A child is placed in a home in which the license is revoked or terminated and the child remains in the home, the child is only reimbursable during the period of time that the license is in effect.
- 9.2.1.4 A license is not issued within 60 days after the agency has all documentation required to issue the license. If the license is not issued within 60 days after the requirements are met, the out-of-home care placement is not reimbursable as of the end of the month of the 60<sup>th</sup> day following the receipt of the documentation.

Example: The agency obtained all required information to issue the license on March 1<sup>st</sup> and the license is issued June 15<sup>th</sup>; reimbursement can only occur for the 60 days following March 1<sup>st</sup>. The entire month of March and April are reimbursable, but reimbursement would end May 1<sup>st</sup>.

- 9.2.1.5 A child turns 18 in the middle of a month and subsequently ages out of foster care. If the child is not enrolled full-time in a high school equivalent program and expected to graduate before turning 19, then all title IV-E claiming should cease the day the child turns 18.
- 9.2.1.6 A child graduates from a high school equivalent program before the child reaches the age of 19. All title IV-E claiming should cease on this day.
- 9.2.1.7 It is determined that a child who is over the age of 18 and is enrolled in a high school equivalent program is no longer expected to graduate prior to turning age 19. All title IV-E claiming should cease the day that the title IV-E eligibility staff receive notification that the child is no longer expected to graduate prior to turning 19.
- 9.2.1.8 A dispositional court order expires in the middle of a month and no subsequent order is filed to continue the agency's placement and care responsibility for the care of the child. If no order is filed then all title IV-E claiming should cease the day after the dispositional court order expires.

### 9.2.2 Ongoing Title IV-E Reimbursability

Aside from the above exceptions, a child who is title IV-E reimbursable during any part of a month is reimbursable for the entire month. The new status is effective at the beginning of the month in which all the eligibility criteria is met.

## 10. Title IV-E Eligibility Determination Process

The title IV-E eligibility process in Wisconsin consists of five (5) phases, including information gathering, eligibility recommendations, State approval, quality assurance (QA), and fiscal claiming. This section explains the title IV-E eligibility process and the staff involved in each of the five (5) phases. The procedures used for State approval, quality assurance, and fiscal claiming ensure that title IV-E claiming does not occur without State approval of each title IV-E eligibility recommendation.

The title IV-E agency for Wisconsin is the Department of Children and Families (DCF) and the title IV-E eligibility process is managed by the Division of Safety and Permanence (DSP). Bureaus within DSP involved in the title IV-E eligibility process include the Bureau of Program Integrity (BPI), the Bureau of Permanence and Out-of-Home Care (BPOHC), Bureau of Safety and Well-Being (BSWB), and the Bureau of Milwaukee Child Welfare (BMCW). Other units involved in the title IV-E eligibility process, under the direction of DSP, include the Area Administration Bureau of Regional Operations staff, the Bureau of Fiscal Services (BFS), and the title IV-E eligibility contractor.

### 10.1 Title IV-E Eligibility Information Gathering

The process of gathering information to make title IV-E eligibility recommendation is performed primarily by contract title IV-E eligibility determination staff under contract with DCF. Referrals of children in out-of-home care placement for title IV-E eligibility determinations are made by county child welfare agencies and BMCW to the DCF title IV-E contractor serving counties in the balance of the state and in Milwaukee.

Referrals are automated through the eWiSACWIS system and each referral creates a title IV-E eligibility record for the child in eWiSACWIS. Title IV-E contract staff work with counties and BMCW to collect information needed for the title IV-E eligibility process. This includes making recommendations for initial eligibility and redeterminations. Information collected includes: financial information for families, court orders and other information necessary to make title IV-E eligibility recommendations. State staff will assist in collecting information from counties as needed.

Information is collected from several sources. Counties and BMCW submit information through eWiSACWIS and on paper. Case files are requested from

counties and BMCW as needed to verify the referral and financial information. Contract eligibility staff check the CARES public assistance records for children in out-of-home care placement including eligibility of children in AFDC related Medicaid and income and asset information for families. Contract eligibility staff also check the DWD Wage Record System for wages reported by companies for existing employee, new hires, and Unemployment Insurance. Eligibility information is entered into eWiSACWIS and a paper title IV-E eligibility file is maintained for each child.

The SEU staff is co-located in the five (5) DCF regional offices along with the DES Program Associates and DSP Special Needs Adoption Program staff. The MEU staff is co-located with the BMCW staff in Milwaukee. The co-locating of the title IV-E contractor staff with the State program staff facilitates the State review and approval of title IV-E contractor Title IV-E case recommendations. DES Human Services Coordinators and BMCW State staff work with counties and units with Milwaukee to ensure timely eligibility referrals to the title IV-E contractor and complete submission of Title IV-E eligibility information.

## **10.2 Title IV-E Eligibility Recommendations**

The title IV-E eligibility recommendation function is included in the title IV-E contract. Based on eligibility and reimbursability information title IV-E contractor staff prepare eligibility recommendations and redeterminations for State review and approval. While recommendations are being developed, the title IV-E eligibility of children is identified as pending in eWiSACWIS and no claiming of federal title IV-E maintenance or administrative funds occurs. Eligibility recommendations are made to State staff for whether children are title IV-E eligible or ineligible, and if eligible, both the initial and ongoing reimbursability of the child.

The title IV-E contractor staff enters all the appropriate title IV-E eligibility criteria information into eWiSACWIS and forwards the case to the DCF staff for approval. This is an automated process through the eWiSACWIS system. While title IV-E contractor staff are responsible for data entry into eWiSACWIS, the state staff are responsible for the approval of all title IV-E determinations through eWiSACWIS.

The title IV-E contract is administered by the DSP Program and Planning Analyst. Quarterly meetings are held with DSP management staff to review the performance of the title IV-E contractor. Performance requirements are built into the title IV-E contract.

## **10.3 State Approval**

For cases processed by the title IV-E contractor, the State approval is done by the DCF staff. The state staff approve the recommendation in eWiSACWIS to allow claiming to begin on each appropriate case.

The DSP policy is that state signoff on eligibility recommendations occur within two (2) weeks of submission of the eligibility recommendation from the title IV-E contractor. Timeliness reports are reviewed by DSP staff and available to other state and contractor staff to ensure that approval of all title IV-E contractor eligibility recommendations are occurring in a timely manner.

## 10.4 Quality Assurance

Regular quality assurance (QA) reviews of title IV-E eligibility determinations are conducted on a monthly basis by Regional Eligibility Coordinators (RECs). The QA activities are performed by DSP staff. The QA staff are reviewing the work of the contract eligibility staff.

An Eligibility Sign-off report identifies which cases have been reviewed in the regional and BMCW offices. This report is used to establish a population from which the QA sample is drawn. RECs submit a Discrepancy Report when their QA determination differs from that of the contract eligibility staff; RECs also notify the title IV-E Program Coordinator where there are questions or discrepancies in eligibility policies and procedures among the contract eligibility staff. The number of cases sampled would be increased if certain trends are identified and/or if there was significant turnover among the contract eligibility staff.

The title IV-E eligibility determinations are subject to annual audit by the Wisconsin Legislative Audit Bureau (LAB) as part of their State Single Audit. LAB reviews title IV-E foster care determinations for BMCW and statewide along with Adoption Assistance determinations.

## 11. Title IV-E Candidates

Title IV-E *administrative* funds can be claimed for candidates identified and verified as at imminent risk of removal and placement in out-of-home care. Candidacy status must be established by workers providing direct case management to the child. The department's Random Moment Time Study (RMTS) process identifies and verifies case management activities performed on behalf of title IV-E candidates. RMTS staff do not determine candidacy, but verify that the child's documentation meet the following criteria:

- 11.1 A documented safety or services plan that identifies the child as being at serious risk of removal and placement in out-of-home care if not for services being provided via the plan.
- 11.2 A child must be at risk of being placed in a potentially IV-E reimbursable out-of-home care setting, including a relative home, family foster home, treatment foster home, group home or residential care center.

- 11.2.1 A child at risk of placement in a non-reimbursable setting – a psychiatric hospital, institution, or other secure setting – does not meet the criteria for candidacy claiming.
- 11.2.2 A child at risk of placement in either a reimbursable or non-reimbursable setting does not meet the criteria for candidacy claiming.
- 11.3 Candidacy must be re-established every six (6) months. If a child’s safety plan contains the required candidacy language but has not been updated within 6 months, the child does not meet the criteria for candidacy claiming.

## **12. Medicaid Eligibility**

### **12.1 Children in Out-of-home Care Placement**

- 12.1.1 In Wisconsin all children in out-of-home care placement via a court order or voluntary placement agreement (VPA) are considered categorically eligible for Title XIX Medicaid benefits.
  - 12.1.1.1 Medicaid eligibility is processed through the eWiSACWIS system via interface with the State’s Forward Health Portal.
  - 12.1.1.2 Medicaid eligibility needs to be recertified through eWiSACWIS on an annual basis.
  - 12.1.1.3 Children who are title IV-E eligible and placed outside the state are categorically eligible in the state that they are being placed.
  - 12.1.1.4 Children who are not title IV-E eligible and placed outside the state will have their medical costs paid for by the agency placing the child in the other state. The placing agency should work with the out of state providers to find medical providers that accept Wisconsin Medicaid payments for services provided to the children.
  - 12.1.1.5 The Department of Corrections is responsible for obtaining medical coverage for children placed in Juvenile Correctional Institutes.

### **12.2 BadgerCare Plus Program**



12.2.1 The BadgerCare Plus program grants extended Medicaid coverage to children aging out of the foster care program until the end of the month in which the child turns 21 years of age. The extension was effective February 1, 2008.

12.2.1.1 The child must have been in out-of-home care placement at the time they turned 18 years of age (or 19 if still under the placement and care responsibility of the agency and enrolled full-time and expected to complete secondary school or its vocational or technical equivalent by their 19<sup>th</sup> birthday).

12.2.1.2 The child cannot be in a “secured” or “correctional” type placement when they turned 18 years of age (or 19 if still under the placement and care responsibility of the agency and enrolled full-time and expected to complete secondary school or its vocational or technical equivalent by their 19<sup>th</sup> birthday).

12.2.1.3 Once determined eligible, the child (young adult) remains categorically eligible until the last day of the month in which they turn 21 years of age. The young adult will be required to annually verify their eligibility.

12.2.1.4 The young adult must reside in Wisconsin to remain categorically eligible. If the young adult moves to another state, the young adult must apply for Medicaid under the rules of that state.

12.2.1.5 Former foster care recipients moving to Wisconsin from other states are also eligible for extended Medicaid coverage if they can verify their foster care status at the time of their 18<sup>th</sup> or 19<sup>th</sup> birthday.

12.2.1.6 The extension of Medicaid eligibility applies to tribal children placed in tribally-funded out-of-home care placement by Tribal courts. If the out-of-home care placement of the children is not documented in eWiSACWIS, the tribal child welfare agency must provide documentation to verify the foster care status.

12.2.2 The BadgerCare Plus (BC+) program grants extended BC+ Medicaid coverage to parents and caretakers of children who have been removed from (or placed into) their home effective February 1, 2008.

Eligibility determinations continue to be made by the local agency Income Maintenance (IM) Units. Child Protective Services staff should refer these parents to the IM Units if they inquire.

12.2.2.1 Parents will continue to be eligible for BC+ Medicaid coverage even if all children have been removed from their home as long as

they continue to work with the child welfare agency on a permanency goal of reunification. All additional Medicaid application requirements must be met (i.e. financial, citizenship, identity, etc...)

- 12.2.2.2 Relative caretakers of court ordered placed children will now be eligible to receive BC+ Medicaid coverage as long as the child is placed with them via a court order. All additional BC+ Medicaid application requirements must be met (i.e. financial, citizenships, identity, etc...) Non-Court Ordered Kinship Care placements can continue to apply for Medicaid coverage under the existing BC+ Medicaid eligibility requirements.

## **13. Adoption Assistance**

### **13.1 Adoption Assistance Program**

- 13.1.1 The Adoption Assistance program provides financial assistance to parents who are raising an adopted child who meets the eligibility criteria for the adoption assistance program. This may include a monthly maintenance payment to the pre-adoptive/adoptive parent(s) for the costs of caring for a child with special needs plus medical assistance. In addition, the Adoption Assistance program will reimburse adoptive parent(s) up to \$2,000 for reasonable and necessary one-time adoption related expenses incurred after termination of parental rights through the time of adoption finalization (e.g. legal fees and/or agency fees).
- 13.1.2 If twelve months have lapsed since finalization of the adoption and the child develops special needs, the adoptive family is able to request an amendment to their agreement. If an amendment to the agreement is approved, a monthly dollar amount will be set to reflect the needs of the child and the family signs a Time-Limited Amended Adoption Assistance Agreement. This amendment process is defined in Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.045).

### **13.2 Adoption Assistance Eligibility Determination Process**

- 13.2.1 The adoption assistance eligibility process begins when the adoption social worker submits the necessary adoption assistance application materials, on behalf of the pre-adoptive parent(s), to the DSP staff for eligibility determination.

- 13.2.1.1 There are several forms used during the application process for determination of Adoption Assistance eligibility.

- 13.2.1.1.1 CFS-72 – Application and Decision Form

- 13.2.1.1.2 CFS-74 – Adoption Assistance Agreement
  - 13.2.1.1.3 CFS-75 - Adoption Assistance Child, Family and Payment Summary Information
  - 13.2.1.1.4 CFS-459 - Adoption of Children with Special Needs One Time Expense Reimbursement
  - 13.2.1.1.5 CFS-2334 - Title IV-E Adoption Assistance
  - 13.2.1.1.6 CFS 834 – Foster Care Uniform Rate Setting
  - 13.2.1.1.7 CFS 2181 – Adoption Assistance Forms Checklist
- 13.2.1.2 Adoption social worker will complete section I of the CFS-2334 form and submit it to title IV-E contractor for completion of section II. The title IV-E contractor staff will complete Section II of the form and make a title IV-E Adoption Assistance eligibility recommendation to the State Adoption program staff through the eWiSACWIS system.
- 13.2.1.3 The contract eligibility staff complete the “adoption funding correction screen” in eWiSACWIS and identify the child’s Adoption Assistance eligibility status by checking the applicable boxes for the following eligibility criteria:
- 13.2.1.3.1 The child is eligible for Adoption Assistance according to criteria of Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03).
  - 13.2.1.3.2 To be considered eligible for Federal Adoption Assistance funding one of the following must exist:
    - 13.2.1.3.2.1 Child is eligible and reimbursable for title IV-E payments in out-of-home care placement.
    - 13.2.1.3.2.2 Child has been in out-of-home care placement for 60 consecutive months or is a sibling to a child who has been in out-of-home care placement for consecutive months at the same time of the adoption petition.

- 13.2.1.3.2.3 Child would have been eligible and reimbursable for title IV-E payments in out-of-home care placement except for not meeting all of the AFDC requirements; however, the child is defined as an “applicable child” and is exempt from meeting AFDC adoption assistance eligibility requirements.
- 13.2.1.3.2.4 Child’s parent is title IV-E minor in out-of-home care placement whose maintenance payment was increased to compensate for the child’s cost of care.
- 13.2.1.3.2.5 Child entered out-of-home care placement via a voluntary placement agreement during which a federal title IV-E maintenance payment was received
- 13.2.1.3.2.6 Child would have been eligible and reimbursable for title IV-E payments in out-of-home care placement except for the lack of a judicial determination of reasonable efforts to prevent removal (REPR) or reasonable efforts to achieve the goals of the permanency plan (REPP)
- 13.2.1.3.2.7 Child is eligible for Supplemental Security Income (SSI) at the time of the adoption petition
- 13.2.1.3.2.8 Child was eligible for title IV-E adoption assistance payments in a previous adoption that was dissolved or ended due to the death of the adoptive parent(s)
- 13.2.1.3.2.89 Child would have been eligible for title IV-E payments except for the fact they were placed in an unlicensed home during the month in which the adoption assistance petition was filed. The home has to be licensable.

NOTE: There is no “means test” applied to the pre-adoptive parent(s) during the child’s adoption assistance eligibility determination process.

- 13.2.1.3.3 If none of the above factors are applicable then the title IV-E eligibility units will recommend the child's eligibility status as not title IV-E eligible, State Funded only.
- 13.2.1.4 Once the title IV-E eligibility unit has made its recommendation for the eligibility status of the adoptive child, the case is referred to the state Adoption Assistance staff for state sign-off. No claiming begins until the state Adoption staff have reviewed the recommendation made by title IV-E eligibility unit and completed the child's eligibility determination in eWiSACWIS.
- 13.2.1.5 The title IV-E eligibility unit is not involved in the determination of the amount of non-reoccurring adoption expenses. The amount of non-reoccurring expenses is submitted directly by the adoptive parent(s) to DCF using form CFS-459. There is no "means test" applied to the pre-adoptive parent(s) when they request reimbursement for non-reoccurring adoption expenses.
- 13.2.1.6 Once the state Adoption staff complete the child's Adoption Assistance eligibility determination in eWiSACWIS the title IV-E eligibility unit are no longer involved in the process. All changes in circumstances for the adoptive child and family are processed directly by state Adoption Assistance staff.

### **13.3 Agency Adoptions – Domestic and International**

- 13.3.1 Children in the guardianship of a licensed Wisconsin adoption agency are eligible for adoption assistance if the criteria defined in Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs are met (HFS 50.03.).
  - 13.3.1.1 The adoption social worker submits the necessary adoption assistance applications materials on behalf of the pre-adoptive parent(s), to the department for eligibility determination. If the adoption social worker does not believe a child is eligible for adoption assistance, the pre-adoptive parent(s) can request an Application and Decision form from the adoption worker and request it be submitted to the appropriate Department Authorizing Authority.
  - 13.3.1.2 A copy of the Application and Decision form must be provided to the pre-adoptive parent(s) as it defines the appeal process should the request for adoption assistance be denied. The Application

needs to be submitted and approved prior to finalization of the adoption.

- 13.3.2 A child brought to Wisconsin for adoption from another nation under an orphan, relative or medical immigrant visa may not be provided adoption assistance from Wisconsin. This is noted in Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03(1) (d)).

## **13.4 Interstate Adoptions**

- 13.4.1 Children placed from Wisconsin into another state for the purpose of adoption, following the requirements of the Child Welfare Policy Manual 8.2A.1, will have their adoption assistance eligibility and rate determined by Wisconsin using the same process as identified in section 15.2.
  - 13.4.1.1 The Wisconsin adoption social worker will work with the adoption worker in the receiving state, and the family if necessary, to gather the necessary information to make an eligibility determination.
  - 13.4.1.2 After the department's authorizing authority determines that the child meets DCF 50.03 criteria, the adoption social worker will negotiate an adoption assistance rate with the pre-adoptive family.
  - 13.4.1.3 The adoption social worker in the receiving state provides the appropriate forms to the pre-adoptive family for signature.
  - 13.4.1.4 If the family and adoption social worker are unable to reach agreement on the adoption assistance rate, the family can appeal the decision using the internal administrative appeal process. If no resolution is reached, the family can then appeal to the Department of Hearings and Appeals (DHA) for a formal ruling.
  - 13.4.1.5 Wisconsin will provide adoption assistance to the family and the receiving state may provide medical assistance following the process outlined in the Interstate Compact on Adoption and Medical Assistance (ICAMA) and as required under federal law.
- 13.4.2 Children placed in Wisconsin by another state, consistent with the Child Welfare Policy Manual 8.2A.1, will have adoption assistance determined by the sending state.
  - 13.4.2.1 Wisconsin will assist the sending state in completing the necessary information to make an adoption assistance determination.

13.4.2.2 When adoption assistance has been agreed to by the sending state, Wisconsin will provide medical assistance consistent with the requirements of ICAMA.

13.4.3 If the state agency has responsibility for placement and care of a child, that state is responsible for entering into the adoption assistance agreement and paying the title IV-E adoption subsidy, even if the child is placed in an pre-adoptive home in another state. If the state agency does not have responsibility for placement and care, the adoption assistance application should be submitted in the pre-adoptive parent(s)' state of residence. The public child welfare agency in the pre-adoptive parent(s)' State of residence is responsible for determining whether the child meets the definition of special needs. That state will enter into the adoption assistance agreement and pay the subsidy (Child Welfare Policy Manual 8.2A.1).

### **13.5 Special Needs Criteria**

13.5.1 Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03), defines the criteria that need to be met in order for a child to be eligible to receive adoption assistance. (Also, refer to 15.2.1.3.1 above.)

13.5.2 The adoption social worker will negotiate the monthly dollar amount (if applicable) with the adoptive family and submit the necessary paperwork to the appropriate department authorizing authority for approval. A copy of the Application and Decision form must be provided to the pre-adoptive parent(s) as it defines the appeal process should the request for adoption assistance be denied. The application needs to be submitted and approved prior to finalization of the adoption.

13.5.3 If twelve (12) months have lapsed since finalization of the adoption and the child develops special needs, the adoptive family is able to request an amendment to their agreement. If an amendment to the agreement is approved, a monthly dollar amount will be set to reflect the needs of the child and the family signs a Time-Limited Amended Adoption Assistance Agreement. This amendment process is defined in Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (HFS 50.045).

### **13.6 Child at High Risk (MA Only)**

13.6.1 Wisconsin Administrative Code DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03(1)(b)5. allows for an Adoption Assistance Agreement to be entered into if the child is at high risk of developing a moderate or intensive level of special needs.

- 13.6.2 “Child at High Risk” is defined in Wisconsin Administrative Code Chapter DCF50, Facilitating the Adoption of Children with Special Needs (DCF 50.01(4) (j). If the child meets this definition, an Adoption Assistance Agreement is written for \$0.
- 13.6.3 When an Adoption Assistance agreement is approved for \$0, the family will receive Medical Assistance for the child and is able to request reimbursement of their non-recurring adoption expenses up to \$2,000 after the adoption is finalized.
- 13.6.4 If twelve months have lapsed since finalization of the adoption and the child develops special needs, the adoptive family is able to request an amendment to their agreement. If an amendment to the agreement is approved, a monthly dollar amount will be set to reflect the needs of the child and the family signs a Time-Limited Amended Adoption Assistance Agreement. This amendment process is defined in Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.044).

### **13.7 Adoptive Child Removed from Adoptive Home as a Result of Displacement, Dissolution or Death of Adoptive Parent(s)**

- 13.7.1 Displacement refers to an adopted child who requires an out-of-home care placement.
- 13.7.1.1 The adoptive parent(s) may be court-ordered to pay a portion or the entire adoption assistance amount that they receive to support the needs of the child while in out-of-home care placement. The court order may order the Department of Children and Families to redirect the monthly adoption assistance reimbursement.
- 13.7.1.2 If the monthly adoption assistance amount is to be redirected in full or partial payment, a copy of the court order must be provided to the Department of Children and Families. The change in disbursement will be made in accordance with the specifications of the court order.
- 13.7.1.3 When the child returns to the adoptive home, documentation must be submitted to the DCF verifying that the child was discharged from the out-of-home care placement. Redirection of the payment will continue until the Department receives a court order indicating that the child has returned home and that the payment should revert back to the family.
- 13.7.2 Dissolution refers to an adoption that has been dissolved via a termination of the parental rights of the adoptive parent(s).



- 13.7.2.1 The child's eligibility for title IV-E funds in a subsequent adoptive placement will be maintained if the child was title IV-E reimbursable at the initial determination of title IV-E Adoption Assistance eligibility. If the child was not found title IV-E reimbursable at the initial determination of title IV-E Adoption Assistance and prior to the subsequent adoption meets title IV-E criteria, a new title IV-E determination will be made.
- 13.7.2.2 Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03), defines the criteria that need to be met in order for a child to be eligible to receive adoption assistance. (Refer to 15.2.1.3.1)
- 13.7.2.3 The adoption assistance rate in a subsequent adoption can be renegotiated based on the needs of the child prior to signing a new Adoption Assistance Agreement.
- 13.7.2.4 The adoption social worker will submit the necessary paperwork to the appropriate Department Authorizing Authority for approval / denial. A copy of the CFS 72, Application and Decision form, must be provided to the pre-adoptive parent(s) as it defines the appeal process should the request for adoption assistance be denied. The application needs to be submitted and approved prior to finalization of the adoption.

### 13.7.3 Death of Adoptive Parent(s)

- 13.7.3.1 If a child is adopted by a married couple and both individuals are deceased, the Adoption Assistance Agreement will terminate the month of the death of the second parent being party to the Agreement. If a child is adopted by a single individual, Adoption Assistance will terminate the month of the death of the individual. Adoption assistance will be paid for the entire month the individual died. Adoption assistance does not automatically transfer to the guardian of the child.
- 13.7.3.2 If the guardian of the child decides to adopt the child and receive adoption assistance, it is necessary for the appointed guardian to qualify as a foster/pre-adoptive parent(s) in accordance with licensing requirements defined in Wisconsin Administrative Code Chapter DCF 56, Foster Home Care for Children, and Wisconsin Administrative Code Chapter DCF 51, Adoption of Children with Special Needs.

- 13.7.3.3 Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.03), defines the criteria that need to be met in order for a child to be eligible to receive adoption assistance. (Also refer to 15.2.1.3.1 above.)
- 13.7.3.4 The adoption assistance rate will be based on the needs of the child at the time the child is adopted by the guardian.
- 13.7.3.5 The adoption social worker will negotiate the monthly dollar amount (if applicable) with the pre-adoptive parent(s) and submit the necessary paperwork to the appropriate Department Authorizing Authority for approval/denial. A copy of the CFS 72, Application and Decision form, must be provided to the pre-adoptive parent(s) as it defines the appeal process should the request for adoption assistance be denied. The Application needs to be submitted and approved prior to finalization of the adoption.

### **13.8 State Sign-Off of Adoption Assistance Eligibility**

- 13.8.1 The Department Authorizing Authority receives the information from the adoption social worker and ensures that the CFS 72, 74, 75 and 834 are completed and that the supporting documents in order to meet the criteria defined in DCF 50.03 are met. Approval must occur prior to finalization. Also refer to 15.2 and 15.2.1.4.

### **13.9 Appeal Process in Wisconsin – Prior to Adoption Finalization**

- 13.9.1 Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.065(1)) provides information regarding the appeal process after the finalization of the adoption.
  - 13.9.1.1 Applicants, other than those pursuing adoption through the Bureau of Milwaukee Child Welfare need to follow the steps defined in the Wisconsin Administrative Code Chapter DCF 50, (DCF 50.065(1)), noted above.
  - 13.9.1.2 Applicants pursuing an adoption through the Bureau of Child Welfare who are not satisfied with the action taken need to follow the process defined in the “Complaint resolution Process” brochure.

### **13.10 Appeal Process in Wisconsin – After Adoption Finalization**

13.10.1 Wisconsin Administrative Code Chapter DCF 50, Facilitating the Adoption of Children with Special Needs (DCF 50.065(2)) provides information regarding the appeal process after the finalization of the adoption.

13.10.1.1 Requests for adoption assistance after the adoption is finalized may be made to the Adoption Assistance Program Specialist. DCF 50.065(2) identifies when the Department of Hearings and Appeals will grant a hearing to appeal the Department of Health and Family Services' determination for adoption assistance.

13.10.1.2 Applicants pursuing an adoption through the Bureau of Milwaukee Child Welfare who are not satisfied with the action taken need to follow the process defined in the "Complaint Resolution Process" brochure.

<https://dcf.wisconsin.gov/mcps/complaint>

DCF 50.065(2) identifies when the Department of Hearings and Appeals will grant a hearing to appeal the determination.

## **14. Wisconsin Subsidized Guardianship Program**

### **14.1 Subsidized Guardianship Program**

14.1.1 The Subsidized Guardianship (SG) program provides ongoing maintenance payments to legal guardians for children who exit licensed foster care via permanent legal guardianship. The SG program is authorized under state statutes as part of the July 2011 state biennial budget for 2011-2013, Act 32, and Department policy DSP Memo Series 2011-09 effective August 1, 2011.

14.1.2 Under Wisconsin's SG program, permanent legal guardianship must be granted under s. 48.9774 Wis. Stats. or equivalent state or tribal guardianship laws.

14.1.3 The title IV-E status of children for Subsidized Guardianship is based on their title IV-E Foster Care eligibility status at the time the case is converted from out-of-home care placement to Subsidized Guardianship. The child's eligibility status is automatically applied to the Subsidized Guardianship case in eWiSACWIS as part of the case conversion to SG.

At this point of entry, all new SG cases will be reviewed and an otherwise title IV-E eligible child will be re-determined to be not reimbursable to title IV-E if any of the following conditions are identified:

14.1.3.1 The provider was licensed and receiving foster care payments for less than 6 consecutive months prior to the child's exit to subsidized guardianship.

14.1.3.2 The legal guardianship was authorized at the direction of the Wisconsin Division of Hearings and Appeals and the subsidized guardianship was not completed prior to this decision.

14.1.4 Following the initial title IV-E eligibility review at a child's initial entry into the SG program, redeterminations are not required except under the following circumstances, at which point an otherwise title IV-E eligible child will be re-determined to be not reimbursable to title IV-E if any of the following conditions are identified:

- The child remains in the subsidized guardianship arrangement after 18 years of age as allowed in Section 5.11.
- Payments are continued under an interim guardian provider, due to the original guardian's death, incapacitation, or termination of a guardianship

The individual cases which meet the above criteria will be identified on a periodic basis based on the child's date of birth and any change in a provider. These re-determinations regarding a child's reimbursability status will occur within the month following the identification of the applicable cases.

14.1.5 The title IV-E status of children for Subsidized Guardianship is based on their title IV-E Foster Care eligibility status at the time the case is converted from out-of-home care placement to Subsidized Guardianship. The child's eligibility status is automatically applied to the Subsidized Guardianship case in eWiSACWIS as part of the case conversion.

14.1.5.1 Prior to conversion of children to Subsidized Guardianship, any issues affecting the title IV-E reimbursability of the child should be resolved, including REPP findings, ongoing legal responsibility and the foster home license.

14.1.5.2 Once converted to Subsidized Guardianship, the title IV-E eligibility status remains in effect for the duration of the Subsidized Guardianship agreement, similar to Adoption Assistance. No redeterminations are required.

14.1.6 In the event the Subsidized Guardianship is disrupted, the payment may be continued to an interim caretaker for up to 12 months. The child welfare agency will make a determination whether the child will be returned to out-of-home care placement, a new guardian is approved for the child, or if the child will be made available for adoption.

14.1.6.1 If the child is returned to out-of-home care placement, it is a new episode requiring court findings of reasonable efforts and contrary to the welfare.

- 14.1.6.2 If a new guardian is approved, a new Subsidized Guardianship agreement will be completed by the child welfare agency. The title IV-E eligibility status of the child for Subsidized Guardianship will carry over from the original guardian to the successor guardian. No redetermination is necessary.
- 14.1.6.3 If the child is adopted and the adoptive parents apply for Adoption Assistance, the determination of contrary to the welfare, AFDC status and Special Needs are based on the original out-of-home care placement episode prior to the Subsidized Guardianship. Other Adoption Assistance requirements must also be met.

## APPENDIX A – Wisconsin’s AFDC Income Standards

185% Gross Income Limit*			100% Standard of Need Effective July 16, 1996**		
Group Size	Area I	Area II	Group Size	AREA I	AREA II
1	\$576	\$557	1	\$311	\$301
2	\$1,018	\$987	2	\$550	\$533
3	\$1,197	\$1,159	3	\$647	\$626
4	\$1,429	\$1,386	4	\$772	\$749
5	\$1,640	\$1,593	5	\$886	\$861
6	\$1,773	\$1,719	6	\$958	\$929
7	\$1,919	\$1,863	7	\$1,037	\$1,007
8	\$2,034	\$1,976	8	\$1,099	\$1,068
9	\$2,130	\$2,067	9	\$1,151	\$1,117
10	\$2,182	\$2,115	10	\$1,179	\$1,143

\*Note: Add \$46 per person for AFDC groups larger than 10.

\*\*Note: Add \$25 per person for AFDC groups larger than 10.

Each woman in the 8<sup>th</sup> or 9<sup>th</sup> month of pregnancy is entitled to an addition \$71 in the gross income limit or need standard.

AREA – I			
Brown	Kenosha	Outagamie	Sheboygan
Dane	La Crosse	Ozaukee	Washington
Dodge	Marathon	Racine	Waukesha
Dunn	Manitowoc	Rock	Winnebago
Eau Claire	Milwaukee	St. Croix	Ho-Chunk Tribe*
Fond du Lac	Oneida Tribe		
AREA – II			
Adams	Grant	Marquette	St. Croix Tribe
Ashland	Green	Menominee	Sauk
Bad River Tribe	Green Lake	Menominee Tribe	Sawyer
Barron	Iowa	Mole Lake Tribe	Shawano
Bayfield	Iron	Monroe	Stockbridge Munsee Tribe
Buffalo	Jackson	Oconto	Taylor
Burnett	Jefferson	Oneida	Trempealeau
Calumet	Juneau	Pepin	Vernon
Chippewa	Kewaunee	Pierce	Vilas
Clark	Lac Courte	Polk	Walworth
Columbia	Oreilles Tribe	Portage	Washburn
Crawford	Lac du Flambeau Tribe	Potawatomi Tribe	Waupaca
Door	Lafayette	Price	Wausara
Douglas	Langlade	Red Cliff Tribe	Wood
Florence	Lincoln	Richland	Ho-Chunk Tribe**
Forest	Marinette	Rusk	

\* If residing on tax-free land in LaCrosse and Marathon counties.

\*\* If residing on tax-free land in counties other than LaCrosse and Marathon.

## **APPENDIX B - Glossary**

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### **AFDC**

“Aid to Families with Dependent Children” means the Income Maintenance program provided under Title IV-A of the Social Security Act. Under federal welfare reform legislation, this program was replaced by TANF. A child’s linkage to AFDC, using the July 16, 1996 need standard is the criteria for Title IV-E eligibility.

### **AFDC Group**

“AFDC Group” means the grouping of the persons from the removal home whose income and resource must be considered in determining if the child meets the financial need (income and resources criteria) for AFDC relatedness.

### **AFDC Relatedness**

“AFDC relatedness” means a IV-E eligibility criterion indicating the child has a relatedness to the AFDC program in effect July 16, 1996 to be eligible for Title IV-E benefits; the criteria for meeting AFDC relatedness are age, citizenship, deprivation, living with a specified relative, and financial need (both income and assets).

### **AFDC 100% Standard of Need**

“AFDC 100% Standard of Need” means the cost of a family’s basic living needs that the State recognizes as essential for all families, and any special recurring or nonrecurring needs recognized by the State as essential for some persons. The AFDC Need Standard in effect on July 16, 1996 is the standard used for Title IV-E eligibility.

### **BMCW**

“BMCW” means the Bureau of Milwaukee Child Welfare which has the same child protective service responsibilities as County Child Welfare Agencies.

### **Candidate**

“Candidate” means a child who is at imminent risk of removal from home if it were not for the reasonable efforts provided by the agency to prevent such a removal.

### **COURT**

“Court” means the court assigned to exercise jurisdiction under chapters 48 and 938.

### **CTW**

“CTW” means a contrary to welfare judicial finding.

## Constructive Removal

“Constructive removal” is considered “paper removal”; when the agency has obtained legal responsibility for the child but the agency did not physically remove the child from his/her current residence.

## Date Entered Foster Care

“Date entered Foster Care” by federal definition means the date that is 60 days after the date on which the child is removed from the home or the date the child is adjudicated as a child in need of protective services, whichever occurs first.

## Deeming group

“Deeming group” means the grouping of person(s) whose income must be deemed toward the child under review based on AFDC program rules in effect as of July 16, 1996.

## Deeming Stepparent’s Income

“Deeming stepparent’s income” means determining for a stepparent living in a parent removal home, that portion of the stepparent’s income that is applied towards the AFDC group in determining if the group meets financial need requirement for AFDC relatedness criteria.

## Department

“Department” means the Department of Children and Families (DCF).

## Deprivation

“Deprivation” means a child must be deprived of the care and support of one or both parents as a result of death, physical or mental incapacity, continued involuntary absence (e.g., due to incarceration) or voluntary absence (e.g., due to divorce or separation) from the home where the child resides, underemployment or unemployment of the primary wage earner, or AFDC-relatedness in the eligibility month. Deprivation factors must be met prior to the date of the child’s removal during the eligibility month.

## Discharge

“Discharge” means the point in time when the child is no longer in out-of-home care placement under the placement and care responsibility or supervision of the agency.

## Division

“Division” means the Division of Safety and Permanence (DSP).

## Earned Income

“Earned income” means income derived directly from work-related activity (e.g., wages).



## Eligibility Month

“Eligibility month” is identified as the month in which legal proceedings (court action) were initiated for court-ordered removals, or the date of the last required signature on a voluntary placement agreement. All AFDC criteria, including deprivation, must be met in the month in which legal proceedings (court action) were initiated. If the removal is considered a constructive removal then the eligibility month is still identified as the month in which legal proceedings were initiated or the date of the last required signature on the VPA.

## Eligibility Specialist

“Eligibility Specialist” means a worker responsible for making title IV-E recommendations.

## Episode

“Episode” means a child’s removal from home with one or more out-of-home care placements that occur up the point of the child’s discharge from the agency’s placement and care responsibility.

## Equity Value

“Equity value” means the market value of a resource, minus any debts still owed on the resource, when determining if the child meets the resource criteria for the Title IV-E program.

## Facilities outside the Scope of Foster Care

“Facilities outside the Scope of Foster Care” means detention facilities, forestry camps, psychiatric hospital, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

## FFP

“Federal Financial Participation” means the matching rate paid by the federal government for specified program activities, as provided in federal regulation. FFP for Title IV-E administrative activities is 50%; training costs, 75%; and IV-E maintenance cost is based on the poverty level in each state, ranging from 50% - 83%, and must be calculated annually for each fiscal year. The State’s IV-E maintenance FFP, which is based on the State’s Federal Medicaid Percentage”.

## FMAP

“Federal Medicaid Percentage” means the FFP rate paid by the federal government for maintenance costs under Title IV-E and direct service costs under the Title XIX program. The rate, based on the poverty level in each state, ranges from 50% - 83%, and must be calculated annually for each fiscal year.

## Foster Care

“Foster Care” means 24 hour out-of-home care placement for all children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes but is not limited to foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes

regardless of whether the foster care facility is licensed and whether payments are made by the state or local agency for the care of the child, or whether there is Federal matching of any payments that are made.

### Foster Home

“Foster Home” means any facility that is operated by a person required to be licensed and provides care and maintenance for no more than 4 children; or if necessary to enable a sibling group to remain together, for no more than 6 children; or if the department promulgates new rules permitting a different number of children, for the number of children permitted under those rules.

### Group Home

“Group Home” means any facility operated by a person required to be licensed by the department for the 24 hour care, supervision and maintenance of 5 to 8 children as defined by s. 48.02(7), Wis. Stats.

### Guardian

“Guardian” means the person named by the court having the duty and authority of guardianship.

### Initial IV-E Eligibility

“Initial IV-E eligibility” means the first IV-E eligibility determination made at the time the child first enters agency legal responsibility.

### Initial Court Order

“Initial court order” means the very first court order that authorizes the child’s removal from the home. It is this court order that must have the contrary to the welfare judicial finding. The typical initial court order that authorizes removal is the Temporary Physical Custody Order (TPC) or the Dispositional Order.

### IV-E Eligibility

“IV-E eligibility” means the process of determining if the State and county can claim federal IV-E funding reimbursement for administrative and training costs associated with the child.

### IV-E Reimbursability (Title IV-E)

“IV-E reimbursability” means determining if the State and county can claim federal IV-E reimbursement for maintenance costs (board and care and applicable childcare) associated with the child.

### IV-E Redetermination

“IV-E redetermination” means a re-evaluation conducted, at a minimum, every 12 months for each month from the last IV-E determination.

## Juvenile Detention Facility

“Juvenile Detention Facility” means a locked facility approved by the Department of Corrections for the secure, temporary holding of children in custody.

## Legal Custodian

“Legal Custodian” means a person, other than a parent or guardian, or an agency to whom legal custody of the child has been transferred by a court, but does not include a person who has only physical custody of the child.

## Legal Custody

“Legal Custody” means a legal status created by the court, which grants the right and duty to protect, train, and discipline the child, and to provide food, shelter, legal services, education, and ordinary medical and dental care.

## Nunc Pro Tunc Order

“Nunc pro tunc order” means changing back to an earlier date of an order, judgment or filing of a document which can be obtained by a showing that the earlier date would have been legal, and there was error, accidental omission or neglect which has caused a problem that can be cured. Federal regulations effective March 27, 2000 specified that nunc pro tunc orders are no longer acceptable for Title IV-E eligibility.

A nunc pro tunc order is an order in and of itself that provides new information to reflect back to a previous court order that should have included specific information that was inadvertently omitted. Nunc pro tunc literally means “now for then.” Nunc pro tunc orders were used in the past for IV-E purposes when previous orders inadvertently omitted the required “contrary to the welfare” judicial finding for Title IV-E eligibility. These orders are not allowed for IV-E purposes under the federal regulations. Court orders must have the required judicial findings in the actual orders on the date the court order was issued.

## Operations Program Associate

“Operations Program Associate” means a state worker responsible for approving all title IV-E and adoption assistance eligibility recommendations.

## Out-Of-Home Care Facility

“Out-of-home care facility” means an out-of-home care placement (e.g., family foster homes, relative foster homes, treatment foster homes, residential care centers, group homes, emergency shelter, pre-adoptive homes) a child may enter when removed from the home.

## Out-of-Home Care Placement

“Out-of-Home Care Placement” means the placement setting in which a child resides when a child has been removed from his or her home via court order or voluntary placement agreement.

## Parent

“Parent” means when the parents of the child were not married at the time of the child’s birth, paternity must be established in order to determine the parental relationship for the father. Paternity is legally established only by a court order or by a Voluntary Paternity Acknowledgment Form (DPH 5024) signed on or after May 1, 1998 and filed with the state Vital Records office. A father’s name on a birth certificate issued in Wisconsin on or after May 1, 1998, is evidence that paternity has been established.

When a woman is married at the time that she gives birth, her husband is considered the legal father of the child unless a court later determines that someone else is the father.

## Pending Status

“Pending Status” means that additional information is needed to determine a child’s IV-E eligibility. The child should be put in a “Pending Status” until the necessary information is obtained to make an IV-E determination.

## Permanency Plan Review

“Permanency Plan Review” means a review that is required every six months for children that have been removed from their home. A judicial review is required every twelve (12) months to determine the permanency plan for the child, including the permanence goal and planned actions to achieve the goal. The court will determine if the agency has made “reasonable efforts to achieve the goals of the permanency plan”. Outcomes of the permanency plan could include:

- Returned to the parent;
- Placed for adoption with the State, including filing a petition for termination of parental rights;
- Referred for legal guardianship;
- Placed permanently with a fit and willing relative; or
- Placed in another planned permanent living arrangement, but only after the other permanence goals have been considered and a compelling reason has been documented why the other permanence goals were not selected for the child.

## Petition

“Petition” means a formal written application to a court requesting judicial action on a certain matter; it initiates legal proceedings. The “petition” plainly states the facts that bring the child within the jurisdiction of the court and what action is being sought from the court.

## Placement and Care Responsibility

“Placement and Care Responsibility” means the agency that is responsible for the development of an individual case plan for the child, including periodic review of the appropriateness and suitability of the plan and the out-of-home care placement, to ensure that proper care and services are provided to facilitate return to the child's own home or to make an alternative permanent placement. Placement and Care responsibility does not equate to “Legal Custody” of

a child in out-of-home care placement. Additionally, this language replaces the “legal responsibility” language that was found in previous versions of the Title IV-E policy manual.

## **Physical Removal**

“Physical removal” means that the agency has physically removed the child from the home of a specified relative and person(s) who have legal custody or parent(s).

## **Qualified Alien**

“Qualified alien” means an individual residing in the U.S. who does not have citizenship but meets the “qualified alien” definition under federal law; it includes, but is not limited to, an alien lawfully admitted for permanent residency, granted asylum or refugee status; a Cuban or Haitian entrant; or an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. Undocumented aliens and aliens legally admitted to the U.S. on a temporary basis for work, study or pleasures are not qualified aliens. Only qualified aliens can apply for and may be eligible for certain Federal public benefits, including Title IV-E.

## **Regional Eligibility Coordinator**

“Regional Eligibility Coordinator” means a state worker responsible for the quality assurance (QA) review of case files that have had a title IV-E eligibility determination completed. These workers may also provide assistance in the state approval of cases in the adoption assistance eligibility determination process.

## **Relative**

“Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, first cousin once removed, nephew, niece, uncle, aunt, step uncle, step aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption even if the marriage is terminated by death or divorce.

## **Removal**

“Removal” means either the physical act of taking a child from his or her normal place of residence either by court order or a voluntary placement agreement and placing the child in a out-of-home care placement setting or the removal of custody from the parent or relative guardian pursuant to a court order or voluntary placement agreement which permits the child to remain in an out-of-home care placement.

## **Removal Home**

“Removal home” means the home of the specified relative and person(s) who have legal custody or parent(s) from whom the child was considered removed (whether it was a physical removal or a constructive removal) when determining if the child met the AFDC relatedness criteria.

## **REPP**

“REPP” means reasonable efforts to achieve the goals of the permanency plan judicial finding.

## REPR

“REPR” means reasonable efforts to prevent removal judicial finding.

## Reservation

“Reservation” means land in this state within the boundaries of the reservation of a Tribe.

## Residential Care Center

“Residential Care Center” means a residential facility operated by a child welfare agency licensed under s. 48.60, Wis. Stats., for the care and maintenance of children. HFS 52 is the administrative rule governing RCCs and is promulgated by the department pursuant to s. 48.67, Wis. Stats.

## Resources

“Resources” means personal property or items of value, such as checking or savings accounts, automobiles, land, buildings, life insurance, etc., used in determining financial eligibility for AFDC.

## Secured Residential Care Center

“Secured Residential Care Center” means a residential care center for children and youth operated by a child welfare agency to hold in secure custody children adjudged delinquent.

## Shelter Care

“Shelter Care” means a non-secure place of temporary care and physical custody for children, including a holdover room, licensed by the Department.

## SSI

“Supplemental Security Income” or “SSI” means the federal program for monetary payments to low income aged, blind and disabled individuals under Title XVI of the Social Security Act, as amended.

## SSA

“SSA” means the Social Security Administration (SSA). The SSA office is the administrative office that issues the Supplemental Security Income (SSI) benefits.

## Title IV-E Program

“Title IV-E” means the federal entitlement program for children who are removed from their homes. The Title IV-E program is referred to as the federal Foster Care and Adoption Assistance Program; formerly referred to as AFDC-F.

## TPR

“Termination of parental rights” means that, pursuant to a court order, all rights, powers, privileges, immunities, duties and obligations existing between parent and child are permanently severed.

## Treatment Foster Home

“Treatment Foster Home” means any facility that is operated by a person under the supervision of the department, a county department or a licensed child welfare agency, and that provides to no more than four children care, maintenance and structured professional treatment by trained individuals, including the treatment foster parents.

## Tribe

“Tribe” means a federally recognized American Indian Tribe or Band in this state.

## Unborn Child

“Unborn Child” means a human being from the time of fertilization to the time of birth.

## Unearned income

“Unearned income” means income derived from sources other than direct involvement in work-related activity, such as Veteran’s Benefits or Unemployment Compensation; also referred to as non-earned income.

## Voluntary Placement Agreement (VPA)

“Voluntary placement agreement” or “VPA” is a signed written agreement between a child welfare agency and the parents(s) or the legal guardian(s) of the child, which is binding on all the parties to the agreement, and is a revocable agreement. A child aged 12 years of age or over must also agree with the agreement, but is not required to sign the document.