


To: DCF/DMCEP Administrator
DCF Area Administrators
Tribal Chairpersons
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Tribal Social Service/Indian Child Welfare Directors
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers

From: Fredi-Ellen Bove 
Administrator

Re: Customary Adoption Eligibility for Adoption Assistance

PURPOSE

This memo addresses eligibility and the application and amendment process for adoption assistance payments for tribal customary adoptions. Included in this memo is a brief overview of the process and procedures that must be followed for a family to receive adoption assistance approval by the Department of Children and Families (DCF). This memo establishes that tribal customary adoption meets the criteria for an adoption for purposes of Adoption Assistance and discusses the eligibility of children subject to the Indian Child Welfare Act to receive Adoption Assistance.

BACKGROUND

Customary adoption is a way for tribes to honor their tribal values and beliefs and meet the permanency needs of their children. Tribal customary adoption transfers custody of a child to adoptive parents without terminating the rights of the child's birth parents. The Department strongly supports the continued efforts of tribes to find permanence for Indian Children through placements within their family and tribe. In recognition of tribal customs and practices the DCF supports the utilization of customary adoptions as defined by tribal law or code as a legal form of permanency for Indian Children. Indian Children who experience a suspension of termination of parental rights through tribal court may be eligible to receive adoption assistance payments to support the permanency of their placement.

INFORMATION SUMMARY

Eligibility

Ch. DCF 50.03 Administrative Code provides the eligibility criteria for Adoption Assistance. Children who meet the definition of an Indian Child categorically meet eligibility criteria under Ch. DCF 50.03(1)(b)4 Administrative Code. An Indian child is defined under State Statute:

48.02(8g) "Indian child" means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe in any of the following ways:

- (a) As a member of the Indian tribe.
- (b) As a person who is eligible for membership in an Indian tribe and is the biological child of a

member of an Indian tribe.

Additional Ch. DCF 50.03(1)(c) eligibility criteria requires that guardianship of the child be transferred to the Department, tribe or other qualified agency. The court or tribe must document a valid reason why the child cannot or should not be returned to the home of his or her parent. See ACYF -PA 01-01 reference 473(c)(1). In non-customary adoptions, this occurs after there has been a termination of parental rights. In customary adoptions, a suspension of parental rights as defined by tribal law, custom, or code must occur.

Process and Procedure

Existing processes and procedures that tribes use to submit adoption assistance applications to the Department Adoption Assistance Eligibility Coordinator must be followed for customary adoptions. This includes submission of information for the initial rate setting followed by the submission of the Adoption Assistance Packet. In place of submitting the court order terminating parental rights with the Adoption Assistance Packet, tribes may submit the court order suspending parental rights per tribal Customary Adoption law, custom, or code.

When submitting information for the initial rate setting determination, all existing requirements must be met. The tribal worker may complete the initial rate setting determination, or the tribe may request a Special Needs Adoption Program (SNAP) worker complete the initial rate setting determination. Tribal workers or SNAP workers may only complete the Child and Adolescent Needs and Strengths (CANS) tool if they are certified in the use of that tool, and must follow the Uniform Foster Care Rate Setting Policy to determine the adoption assistance rate. Once the rate is approved by the Department Adoption Assistance Eligibility Coordinator, the tribal worker may complete the Adoption Assistance Packet to submit to the Department. The Adoption Assistance Agreement must be approved and signed by all required individuals **PRIOR** to the adoption finalization. Tribes are encouraged to begin the application process as soon as possible, but no later than three weeks before the adoption finalization.

The "Adoption Assistance Forms Checklist/Routing Instructions Tribal or Customary Adoptions (DCF-F-5159)" form contains information about which documents are required to submit when applying for Adoption Assistance. This form may be found on the Department's website at <https://dcf.wisconsin.gov/forms>

Adoption Assistance Amendments

If an adoptive parent with a signed Adoption Assistance Agreement in effect feels that the special care needs of their child have increased since the time of the adoption, they may request an Adoption Assistance Amendment by following existing processes and procedures. For more information about Adoption Assistance Amendments, please see the Department's Adoption Assistance Amendment brochure located on the Department's website.

CENTRAL OFFICE CONTACT: Adoption Assistance Eligibility Coordinator
(608) 422-6919
AAEligibility@wisconsin.gov

Adoption Program Specialist
(608) 422-6905

MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>