ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION ADMINISTRATIVE CODE

CHAPTER 660-5-22 ADOPTION

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660-5-22-.01 Definition Of Adoption.

Services provided on behalf of a child who is legally free for adoption inclusive of recruitment and study of prospective adoptive homes, placement of the child, supervision of the child and home and other post placement services, legal services, reporting to the court and supervision of a child for whom adoptive petition has been filed in probate court and information and referral. The Department provides services in certain related adoptions and in adoptions where children are placed independently.

Author:

Statutory Authority: Code of Ala. 1975, Titles 12, 26, and 38; Title XX of the Social Security Act, 42 U.S.C. 1397.

History: Effective October 11, 1983.

660-5-22-.02 Eligibility For Title XX Services.

After a child is placed for adoption by the Department or when a notice is received by the County Department that a petition has been filed to adopt a child (not an agency placement), the worker must complete and sign an Application for Services on behalf of the child, using the name given the child by the adoptive parents. The child will be considered a "separate family" for the purpose of the Title XX application. Only the child's own income will be considered in determining if the child meets the income limitations for Title XX services. If the child's own income exceeds the Title XX Income Scale for a one-person household, the child is not eligible for Title XX Adoption Services and must receive these services under the Child Welfare Service (CWS)

category of eligibility. A child who is a recipient of AFDC, SSI or SUP will be eligible for Title XX Services as a current recipient.

Author:

Statutory Authority: Code of Ala. 1975, Titles 12, 26, and 38; Title XX of the Social Security Act, 42 U.S.C. 1397.

History: Effective October 11, 1983. Emergency amendment effective January 23, 1991. Succedent permanent amendment effective May 9, 1991.

660-5-22-.03 Adoption Placement.

(1) In fulfilling its responsibility to seek out and protect children in need of its service, the Department has an obligation to accept into its permanent custody those children who must be permanently separated from their own families and to place for adoption only those children for whom parental rights have been terminated and for whom custody has been committed to the Department by final order of the court.

(2) Legal Risk Placement. A legal risk placement is placement of a child with a prospective adoptive resource on a foster care basis pending legal proceedings to terminate parental rights or during appeal proceedings of a court order terminating parental rights. In some situations, infants may be placed with prospective adoptive families directly from the hospital on a legal risk, foster care basis. Direct placements will be considered only under the following conditions:

(a) The birth parents have been interviewed and counseled by the worker prior to the birth of the child and have had ample opportunity to consider alternate plans for the child, to decide whether adoption is the best plan for them and the child, and to understand the effects and permanency of adoptive placement and termination of parental rights.

(b) The birth mother and legal father, if there is one, have been interviewed after the child's birth and have had an opportunity to reconsider their plan after the birth of the child and to confirm their decision to place the child for adoption.

(c) The Department is prepared to accept permanent custody of the child.

(d) The infant has been observed in the hospital nursery by a pediatrician and medical reports on the child are submitted to the Office of Adoption indicating the health status of the newborn child and the implications of any observable or suspected medical problems.

(e) An approved adoptive resource is available and appropriate for placement of the infant on a legal risk basis.

(f) The status of the alleged or legal father has been determined, preferably with an interview, such as to indicate the likelihood of moving easily from a legal risk placement to an adoptive placement.

(3) In offering services to families who are interested in having placed in their permanent home a child or children whom they may adopt, the Department has an obligation to consider carefully their interest and, if appropriate, to enter into a study for the purpose of deciding with them whether their home is a resource for a child who may be in the Department's custody.

(4) Application for the placement of a child should be filed in the county in which the applicants live. General requirements for adoptive applicants have been established to provide the applicants and the agency some guidelines within which to work.

(5) Applications to adopt children will be accepted from employees of the Department of Human Resources. For employees who applied to and incurred expenses with a licensed child-placing agency prior to March 9, 1990, the Department will continue to assume the cost of the fee charged by the agency for the home study and supervision of the child in the home, except that no expenses incurred out-of-state or transportation expenses of foreign born children will be paid. The Department will not assume the cost of applications by Department employees to child-placing agencies. All Department policies concerning acceptance of adoption applications, eligibility requirements, and placement processes shall apply to Department employees. In carrying out those policies, no special consideration may be given to an applicant's status as a Department employee. A Department employee may not apply to adopt a child who is or has been within his or her caseload, or in a caseload of a worker under his or her direct supervision.

(6) General Requirements For Applicants:

(a) Age. Both husband and wife must be at least nineteen years of age. Other than this restriction, applications to adopt may not be denied solely on the basis of a person's age. In considering the appropriateness of an adoptive resource for a particular child, however, the applicant's age in relation to the age of the child to be placed will be considered in conjunction with the other general requirements listed in these rules.

(b) Single Person(s). Applications may be accepted from single persons.

(c) Marriage. Applicants must have been married at least three years. Marriage verification must be made. Acceptable documentation of marriage includes a valid marriage certificate sufficient to recognize a legal or common-1aw marriage in the jurisdiction. Previous marriages, divorces or deaths must be verified.

(d) Criminal Records Check. Applicants and members of their household 19 years of age and older are required to be fingerprinted and have a criminal records check.

(1) No home can be approved where any adult (or individual tried as an adult) in the household has been convicted of a crime (felony or misdemeanor) in this or another state at any time involving:

(i) a sex-related crime. Such crimes include, but are not limited to, sexual abuse, sexual exploitation, molestation, rape, child pornography, sale or exhibition of obscene materials, sodomy, sexual mischief, incest, enticement for immoral purposes, prostitution, obscenity; or

(ii) serious intentional, reckless or negligent physical injury, danger or death of any person. Such crimes include, but are not limited to, murder, homicide, manslaughter, assault with a weapon, reckless endangerment, kidnapping, unlawful imprisonment; or

(iii) a crime against a child. In addition to those crimes listed in 5(d)1.(i) and 5(d)1.(ii) such crimes include, but are not limited to, abandonment, endangerment, non-support, assault; or

(iv) involving major intrusion upon property or use of weapon to secure property. Such crimes include, but are not limited to, burglary and robbery; and

(v) arson; or

(vi) manufacture, sale, distribution, use or possession of controlled substances, opiates, illegal, addictive, or narcotic drugs. Such crimes include, but are not limited to, convictions for DUI, DWI or for sale, distribution or possession of cocaine, heroin, LSD, marijuana, or alcohol.

2. Exceptions:

(i) Category I

(I) On an individual basis, the Division of Family and Children's Services may make an exception which will allow for the approval of an application notwithstanding the facts that a household member has a criminal conviction involving (1) major intrusion upon property or use of a weapon to secure property [other than those crimes falling under the no exception category] or (2) arson. A Category I exception will only be given where there is evidence of rehabilitation by the felon supported by credible documentation.

(II) Credible documentation includes: (1) written statements from law enforcement or community leaders; (2) statements regarding extenuating circumstances surrounding the crime and indicating that the crime is not likely to reoccur in the future; (3) statements regarding involvement in community organizations or programs; (4) statements establishing successful completion of a rehabilitation program indicating rehabilitation and a propensity not to recommit the crime in the future.

(ii) Category II

(I) On an individual basis, a special committee established by the State Department of Human Resources may grant an exception which will allow for the approval of an application notwithstanding the fact that a household member has a criminal conviction [other than to those crimes falling in the no exemption category] for a (1) sex related crime; (2) serious, intentional, reckless or negligent physical injury, danger or death of any person; or (3) a crime against a child; or (4) the manufacture, sale, distribution, use or possession of controlled substances, opiates or illegal, addictive or narcotic drugs. However, due to the serious nature of these offenses certain conditions must exist before a request for an exception will be evaluated. In case of a felony conviction, ten years must have elapsed since the sentence was served or probation ended, whichever is later. In the case of a misdemeanor, five years must have elapsed since the sentence was served or probation ended, whichever is later

(II) The application for a Category II exception will be reviewed by a three person Category II Exception Committee, none of whom has been

involved in the case. In addition to the information cited above, the Committee will require evidence of rehabilitation supported by credible documentation. Credible documentation includes: (1) written statements from law enforcement or community leaders; (2) statements regarding extenuating circumstances surrounding the crime and indicating that the crime is not likely to reoccur in the future; (3) statements regarding involvement in community organizations or programs; or (4) statements establishing successful completion of a rehabilitation program indicating rehabilitation and a propensity not to recommit the crime in the future; or (5) pardon, if it exists. Furthermore, additional information may be requested by the Committee, such as a medical examination, drug screening, psychological evaluation or personal interview with the County Department and applicant. A recommendation will be made by the Category II Exception Committee to the Director of Family and Children's Services for a final decision. The County Department will receive a response to their request from their county assistance consultant based upon the Director's decision.

3. No exception will be granted where there is a criminal conviction involving:

(i) a sex-related crime against a child;

(ii) serious intentional reckless or negligent physical injury or death of a child.

(e) Motivation. It is important to understand the motives of applicants who are seeking a child and the extent to which they are motivated by their own needs and by the needs of a child. Where infertility is present, the issues surrounding the infertility should be covered in considering the motivation to adopt.

(f) Financial Stability. There is no minimum income level for applicants. The family should have sufficient income and savings to meet its needs and provide for the child or children without difficulty. (Money management is important, as well as the amount of income and savings.)

(g) Employment. Applications may be accepted from a person(s) even though they are employed outside of the home. If the application is approved, placement of a child may be made even though the person(s) plans to continue employment outside the home. The Department may exercise sound discretion in requiring a person(s) to remain in the home with a child for a

reasonable period of time when a particular child requires the presence of that person(s) to ensure his adjustment. The employment plans of a prospective parent(s) outside the home will be discussed during the study process. The Office of Adoption will review such plans for approval. When placement plans are being made where the mother or the single parent plans to continue employment, specific information will be secured about child-care plans. Such plans are to be approved by the Office of Adoption.

(h) Health. The agency requires medical reports indicating that all family members are in good health.

(i) Assurance of Medical Treatment. The Department must have assurance that the adoptive parents are willing to provide medical treatment to children as recommended by a legally licensed physician.

(j) Religion. Applications may be accepted from persons of any religious faith. Children should have parents who can give them an opportunity for spiritual and ethical development. Any religious differences between the applicants should be worked through prior to approval.

(k) Residence. Applications may be accepted from persons who currently live in Alabama and who expect to remain in Alabama long enough to complete the application process and have a reasonable period of consideration for placement. Inquiring families living outside the State should be referred to the public social service agency in the state where they live.

(l) Citizenship. The application may be accepted where either the prospective father or mother is a citizen of the United States. In instances of single parent adoption, the parent must be a citizen of the United States. If naturalization is imminent, the family study may be initiated, but placement will not be made until citizenship of at least one parent is granted.

(m) Race. Race or national origin will not be used as a single or exclusive criterion in the placement of children for adoption. The categorical denial of placements based on race or national origin is hereby prohibited. The consideration of race or national origin of the child or prospective parents will be used as one relevant factor in placements only if doing so is in the best interest of the child. This determination will be made on a case by case basis to take into account the particular child, parents and circumstances.

(n) Exceptions. Exception to the requirement that applicants must have been married for at least three years may be made in order to locate the most appropriate resource for a child with exceptional needs such as a child with marked physical or

mental handicaps, black children, older school-age children or large family groups. Clearance should be made with the Office of Adoption prior to initiating home study.

(7) The Adoptive Home Study. The purpose of an adoptive home study is to meet the needs of the children for whom the agency has planning responsibility and to help adoptive applicants determine whether they have the capacity to become parents. Major consideration should be given to the personal adjustment of each of the prospective parents, their relationship to each other, their relationship to their own parents and siblings, their deeper as well as expressed motives in seeking a child, their understanding of children and children's needs, and their ability to accept an adopted child. At least one home visit during the study is required as well as individual interviews with the applicant(s).

(a) The following information on the adoptive couple or person should be included in the home study:

1. How the couple or person came to apply;

2. Experience with children, particularly adopted children;

3. Expectations they have for the prospective child;

4. Autobiography written by the applicants;

5. Description of the home and neighborhood;

6. Marital relationship including courtship, wedding, present satisfactions and adjustments and leisure time activities;

7. Early life;

8. School and work experiences, including child-care plans if both parents work or if applicant is single and employed;

9. Feelings on infertility, if present;

10. Religion;

11. The type child they will accept, including information on whether they will accept handicaps, special needs or problems, and certain background factors;

12. Ideas about child rearing;

13. Attitude about telling child of his adoption;

14. Information on others in home; and

15. Family support systems.

(b) At least two references are to be interviewed after it is reasonably certain that the applicant(s) will be recommended for approval.

(c) A diagnostic evaluation will be recorded at the end of the study and is inclusive of recommendation of the type of child as well as future plans for the applicant(s).

(d) Applicants are to be given a choice of group or individual study. The group study lends itself to an educational approach. The minimum number of group sessions is four and the following outline is followed: Session I-Basic Adoptive Information; Session II-Values Clarification; Session III-Panel of Adoptive Parents or Professionals; and Session IV-Parenting Skills. Following these sessions, the same steps are taken as in the conventional study method, namely home visit, references, recording, evaluation and assessment.

(e) Final approval of an application must be made by the Department.

(8) Release of Adoption Home Studies. Approved adoption home studies shall not be released to another state agency. Independent agency or Private Independent Practitioner prior to six (6) months after the date of the approval of the adoption home study.

(9) Reapplications. Applications for the second child may be taken at any point after the first adoption is legally final. The study includes areas of change since the first study and what applicants will accept in the second child.

(10) Rejection of Application. The failure to approve an application must always be related to the Department's responsibility to choose homes which appear to be the ones that would best serve the children under care.

(11) Selection of Home.

(a) The adoptive home is selected by the Office of Adoption in the State Office and its choice is shared with the County Office. Adoptive parents are selected on the basis of their capacity to meet the needs of a particular child rather than the length of time they have waited for a placement. The prospective family is advised of the availability of the child for placement, and it is made clear that they are not obligated to take the child proposed for them.

(b) Adoption by Foster Parents. The Department recognizes that, for many children who become free for adoption, the

child's foster parents will be the most appropriate adoptive resource. In those situations where the foster parents request to adopt a child in their home, those foster parents will be given first consideration as an adoptive resource for the child. The decision as to whether the foster home will be approved as the child's adoptive home will be a decision of the Department based upon the following factors: the child's attachment to the foster parents, the length of time the child has been in the home, the age of the child in relation to age of foster parents, health and income of foster parents, involvement/interference from biological family, and appropriateness of the foster home placement.

(12) When a legal risk placement [refer to definition in subsection (2)] is to be considered, the following procedures will be followed:

(a) The approved adoptive family must be issued a foster home approval for the particular child to be placed, unless the resource is already an approved foster home.

(b) A board payment (current rate) or Medicaid only (if the adoptive/foster parents do not desire to receive the board payment) will be awarded. The board payment and Medicaid will be in effect only until the adoptive home placement agreement is signed.

(c) Upon placement of the child, the foster/adoptive parents will be required to sign an acknowledgment of the legal risk involved in the placement and an acceptance of the child on a foster care basis pending legal proceedings to terminate parental rights. Adoption placement agreements will not be initiated until the child is legally free for adoption.

(13) Placement Process. The child is seen by the couple who will be given as much time as they wish to be with the child. History of child will be discussed, pertinent medical information will be reviewed, and questions will be answered. Pre-placement visits may be necessary before the child and the adoptive parents are ready for placement. Each placement will be handled in accordance with the child's and adoptive parents' needs and capacities. If the couple decides to take the child they will be asked to sign the Adoptive Home Placement Agreement, which is also signed by a representative of the State Department of Human Resources. The couple will be given copies of the child's medical record and the Adoptive Home Placement Agreement. They will be instructed to have the child seen by their own pediatrician or physician as soon as possible. The supervising County Department will be sent copies of the child's record while in foster care, his medical, and a copy of the placement interview and placement agreement.

(14) Post Placement Services.

(a) The County Department will be responsible for providing or arranging post-placement services to the family and the child in the adoptive home.

(b) For children placed by the Department, at least two visits during the first three months should be made by the county worker, the first visit being with the child and family in the adoptive home within forty-five days of placement. At the end of the three months, the family may be ready to request that consent be given to their adoption of the child. Recording is forwarded to the Division of Family and Children's Services immediately after each visit, and the last should be accompanied by a request for consent to be given if the family is ready to initiate the legal procedure and if the worker agrees that this is appropriate. After the court has issued an Interlocutory Order, at least two more visits are to be made prior to issuance of the final decree and copies of the recording of each visit are sent as they are made to the Office of Adoption. Both adoptive parents should be involved in the post-placement contacts.

(c) Where the Department is investigating the adoption of children placed independently or by agencies other than the Department, only one post-placement visit is required. That visit with the child and adoptive family must occur in the home of the adoptive family within 45 days of the child's placement in the home. Additional services or visits should be provided by the worker as indicated by the family's or child's needs.

(15) Removal after Placement. The agency has authority to remove the child after placement and before legal adoption. This step should be considered only for reasons such as separation of the adoptive parents, death, mental breakdown, serious incapacitating illness, discovery of a felony conviction, or failure in adjustments. Even in such cases, the County and State Departments of Human Resources must examine each situation individually to determine whether the child should be removed. Every possible help should be offered the family before considering removal.

(16) Work with Other Agencies in Adoption. The State Department is prepared to work with any authorized or licensed child-placing agency in or out of the State in the interest of placement of a child with an Alabama family whose application is or can be approved. The interested family and the other agency should request this service. Applications may not be in approved status with the Department of Human Resources and another child-placing agency simultaneously.

(17) Intercountry Adoptions. The Department of Human Resources may work with families in Alabama who are interested in intercountry adoptions if those families have knowledge of a particular child and/or a particular agency which will consider placement with

them. However, in most instances these families will be referred to licensed child-placing agencies whose services include intercountry placement.
Author: Margaret Livingston
Statutory Authority: Code of Ala. 1975, §§26-1-4, 26-10A-1 through 26-10A-38, Title 38, Chapter 2.
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660-5-22-.04 Adoption Legal Process.

(1) Pre-Placement Investigations.

(a) A child may not be placed in a prospective adoptive home, either independently or by an agency, prior to completion of a pre-placement investigation of the petitioners and their home, except for good cause shown to the court on the court's record and with immediate notice by the petitioners to the court and the County Department of Human Resources.

(b) The pre-placement investigation must have been completed within twenty-four months of the placement of the child.

(c) The investigation must be conducted by one of the following:

1. The Department of Human Resources;

2. A licensed child-placing agency;

3. An individual or agency licensed by the Department to perform investigations; or

4. A social worker appointed by the court who is licensed by the Alabama Board of Social Work Examiners and certified by the Board for private independent practice in the social casework specialty.

(d) In the case of persons applying to the Department to become an adoptive resource for a child in the Department's custody, the completion of the adoption home study will meet the requirement for the pre-placement investigation.

(e) When a specific child has been identified, all criteria for the pre-placement investigation as listed in (f) below must be included in the investigation and report. When a specific child has not been identified for placement at the time of the pre-placement investigation, the information pertaining to the child and birth family must be included in the post-placement investigation and report to the court.

(f) Information which must be obtained in the investigation and included in the report to the court includes the following:

1. The suitability of each petitioner and his or her home for adoption;

2. Why the natural parents, if living, desire to be relieved of the care, support, and guardianship of the child;

3. Whether or not the natural parents have abandoned the child or are otherwise unsuited to have custody of the child;

4. Any orders, judgments or decrees affecting the adoptee or any children of the petitioners;

5. Any property owned by the adoptee;

6. The medical histories, physical and mental, of the adoptee and his or her biological parents;

7. Criminal background investigations of the petitioners;

8. All costs and expenses related to the adoption; and

9. Any other circumstances which may be relevant to the placement of the adoptee with the petitioners.

(g) All current and previous marriages, divorces and deaths of the petitioners and their current or former spouses must be verified and current reports of medical examinations must be completed by the petitioners and other residents of the household (must have been completed within two years of date of application).

(h) Medical histories of the adoptee and his or her biological parents must be given to the petitioners prior to finalization

of the adoption and the case record must document that this information was provided to the petitioners or their attorney.

2. Petition.

(a) Following placement of a child in the home of the prospective adoptive parents, a petition to adopt the child must be filed in the Probate Court in the county in which the petitioners have legal residence or are in military service, in the county in which the child lives or has legal residence, or in the county in which the agency or institution having custody or guardianship of the child is located.

(b) In independent adoptions, a copy of the child's birth certificate or an affidavit stating that application for the birth certificate has been made must be filed with the petition except in cases of abandonment, along with a copy of the report of the pre-placement investigation. For children placed by the Department, the petition must be accompanied by a copy of the report of the pre-placement investigation and an affidavit by the petitioners that they have requested the Department to provide the court with a copy of the child's birth certificate. The Department will acknowledge to the court the receipt of the adoption petition and forward a copy of the child's original birth certificate.

(c) The petition must be filed within thirty days of placement unless the child is in the custody of the Department or a licensed child-placing agency, or unless the court extends the thirty day period for good cause shown. For children placed by the Department, a three-month post-placement period will precede the issuance of consent by the State Department, unless the Department determines that the best interests of the child warrant an earlier issuance of consent.

(d) The proceedings for the adoption of a child may be transferred to the juvenile court on motion of any party of the proceedings. Provisions of the adoption statute are still applicable in these cases.

(3) Notice of Adoption Proceedings.

(a) Unless previously waived, notice of the adoption proceedings must be served by the petitioner on the following:

1. Any person or agency whose consent is required by law;

2. The child's legal custodian or guardian;

3. The spouse of any petitioner who has not joined in the petition;

4. The spouse of the adoptee (if applicable);

5. The surviving parent or parents of a deceased parent of the adoptee;

6. The child's physical custodian, excluding foster parents or licensed child-placing agencies, or persons having court ordered visitation rights;

7. The agency or individual appointed by the court to investigate the adoption;

8. Any other person designated by the court;

9. The Department of Human Resources; and

10. The father and putative father of the adoptee if made known by the mother or otherwise known by the court.

(b) A copy of the petition must accompany the notice to persons in numbers 2 through 10 above and all persons served must respond within thirty days if they intend to contest the adoption.

(c) Upon receipt of the notice of adoption proceedings and petition, the State Department will acknowledge to the appropriate court the receipt of the petition and identify the investigator in the adoption if that information is known to the Department.

(4) Interlocutory Order. After placement of the child with the petitioners and the adoption petition has been filed, the court will enter the interlocutory order. In an independent adoption, the order will grant legal custody of the child to the petitioners. If the child was placed by the Department or a licensed child-placing agency which held legal custody of the child at the time of placement, custody will be retained by the Department or the agency through finalization of the adoption unless there is a relinquishment.

(5) Post-Placement Investigation and Report to the Court.

(a) A post-placement investigation and report to the court must be made in all adoptions, except that no pre- or post-placement investigation or report is required in a related or stepparent adoption unless otherwise ordered by the court.

(b) If a pre-placement investigation was completed by the Department within 24 months of placement, the post-placement investigation will reflect any subsequent changes in the family's situation and the additional information as described below. If the pre-placement investigation was not completed within 24 months of placement, the post-placement investigation must include all information as required in the pre-placement investigation.

(c) The Department must verify all of the allegations of the petition and include sufficient information for the court to determine whether there has been compliance with the consent or relinquishment provision of the adoption statute.

(d) The natural parents, unless they have lost custody or guardianship of the child through court proceedings or unless they cannot be found, must be interviewed.

(e) The adoptee must be observed and the petitioners interviewed in their home within 45 days after placement.

(f) If the Department considers the adoption not to be in the best interests of the child, the Department's objections shall be included in a report to the court in order for the judge to consider in determining whether or not the adoption may proceed.

(g) If the adoptive parents wish to be relieved of custody of the child or if the child is in need of protective services, the same procedure is to be followed for any child in need of protective services.

(h) The petitioners are required to file with the court a sworn statement of all fees and charges related to the adoption prior to finalization of the adoption. A description of these fees, charges, costs and expenses must also be a part of the Department's report to the court. The petitioners must have court approval for all charges for expenses, fees or services they will be paying related to the adoption. These expenses include fees in independent adoptions and other charges incurred in agency as well as independent adoptions.

1. It is a crime to pay or offer to pay money or anything of value to a birth parent for their consent or cooperation in an adoption or for placement of a child for adoption.

2. It is permissible to pay for the maternity-connected medical or hospital and necessary living expenses of the birth mother preceding and during her pregnancy-related incapacity as an act of charity, as long as payment of these expenses is not contingent upon placement of the child for adoption.

(i) The completed report of the post-placement investigation must be filed with the court within 60 days from receipt of notice of the adoption proceedings unless the court grants an extension upon a showing of good cause.

(j) In investigating the circumstances of the placement, if it appears that an unlicensed third-party arranged the placement,

all relevant information should be obtained, reported to the court and sent to the State Department of Human Resources.

(6) Consents and Relinquishments.

(a) The following persons or agencies are required to consent to an adoption:

1. The adoptee if he or she is fourteen years of age or older, unless the court finds that the adoptee does not have the mental capacity to consent;

2. The adoptee's mother and presumed, or legal, father unless their parental rights have been terminated by the court, or they have relinquished the child to the Department of Human Resources or a licensed child-placing agency for the purpose of adoption, or they have been adjudged by a court to be incompetent or mentally incapable of consenting or relinquishing or are dead or presumed deceased;

3. The putative or alleged father if his identity is made known by the mother or is otherwise known to the court provided he responds within 30 days to the notice of the adoption proceedings; unless he has signed a statement denying paternity; and

4. The Department of Human Resources or licensed child-placing agency to which the adoptee has been relinquished or which holds permanent custody of the child has placed the child for adoption. A relinquishment signed by the parents transfers the physical custody of the child to the Department or a licensed child-placing agency which then has the authority to place the child for adoption.

(b) Consents or relinquishments may be given before a Probate Judge or clerk of the court, or other officers appointed by the court to take consents; designated representatives of the Department of Human Resources or a licensed child-placing agency; or, a notary public. However, the consent of a birth mother taken prior to the child's birth must be signed or confirmed before a probate judge. The Department will not take consents in independent adoptions, but must verify that the consent was taken by an authorized party.

(c) For children placed by the Department, the State Department will provide consent for the adoption upon recommendation and request from the County Department following the initial three-month period after placement and two post-placement visits by the county worker with the adoptee and adoptive parents, provided the Department and the adoptive parents indicate their willingness to proceed with the adoption.

(d) In interstate placements, the Department will recognize consents or relinquishments to agencies taken by persons appointed to take consents and relinquishments by any agency which is authorized by the other state's law to conduct investigations and home studies for adoptions.

(e) In the case of a minor parent who is consenting to the adoption of his or her child, a guardian ad litem must be appointed to represent the interests of the minor parent prior to giving consent, the consent of the minor parent may not be revoked solely on the basis of the parent's minority.

(f) The consent or relinquishment must be in writing and signed by the person(s) giving consent or relinquishment and must state the following:

1. The date, place, and time of execution;

2. The child's name and date of birth or expected date of birth where consent or relinquishment is taken prior to the birth of the child;

3. The relationship of the person consenting or relinquishing;

4. The names of each petitioner unless the document is a relinquishment to the Department or a licensed child-placing agency or, if a consent, the person executing the consent has waived his or her right to know the identity of the petitioners;

5. The address of the court in which the petition will be filed, if known, and if not known, the name and address of the agency, petitioner, or their attorney on whom notice of the withdrawal of the consent may be served;

6. If a relinquishment, the name and address of the agency to which the child is being relinquished; and

7. Certification that the person executing the document:

(i) Is voluntarily and unequivocally consenting to the adoption;

(ii) Understands that the document may be irrevocable and should not sign it if he or she desires psychological counseling or legal advice;

(iii) Understands that by signing the document all rights and obligations to the child are forfeited;

(iv) That in signing the document in conjunction with the subsequent court order ratifying the consent,

notice of adoption proceedings are waived, except in the case of a contest or appeal, and if indeed the consenter actually is waiving the right to further notice; and

(v) That the person executing the document understands it and executes it freely and voluntarily, and that the person has received or been offered a copy of the consent or relinquishment.

(g) The required consent or relinquishment may be implied when the parents have left the child for a period of 30 days without providing for his or her identification; left the child with others for a period of 6 months without providing for the child's support and without communication, or not otherwise maintaining a significant parental relationship with the child; or having received notice of the adoption proceedings fails to answer or respond within 30 days.

(h) Consents or relinquishments may be taken at any time, including prior to the birth of the adoptee, but the consent of the adoptee's natural mother taken prior to birth must be signed or confirmed before a Probate Judge. At the time of taking the mother's pre-birth consent, the Judge must explain to the mother the legal effect of signing the consent and the time limits and procedures for withdrawal of the consent, and must give the mother a form for withdrawing the consent. Although the law allows parents to sign pre-birth consents and relinquishments, under no circumstances will the Department accept a child for placement on a relinquishment signed prior to the birth of the child.

(i) The consent or relinquishment may be withdrawn without court action for any reason within 5 days after the birth of a child or within 5 days after signing or confirming (before the court) the consent or relinquishment, whichever comes last. The person withdrawing the consent must deliver or have postmarked a signed and dated written withdrawal signed by two witnesses to the court within the five day period. Within 14 days after the birth of the adoptee or of signing the consent, whichever comes last, the consent may be withdrawn by petitioning the court for withdrawal. Within this 14-day period, if the court finds the withdrawal to be reasonable and in the best interest of the child, the consent or relinquishment may be withdrawn. The parent may withdraw the consent or relinquishment at any time up until the final decree upon a showing that the consent or relinquishment was obtained by fraud, duress, mistake, or under influence. The consent or relinquishment may not be challenged on any grounds after one year from the date of the formal decree except in cases where the adoptee has been kidnapped.

(7) Dispositional Hearing and Final Decree. The court is to schedule the adoption petition for a dispositional hearing within 90 days (120 days for special needs child) after filing the petition unless the court extends the time period for good cause shown. The court may set the dispositional hearing earlier than the 90 or 120 days upon receipt of all required information and when the child has been in the actual physical custody of the petitioners for a period of 60 days or when the time requirement is waived by the court for good cause. The court issues the Final Decree of adoption after which the child's new birth record is prepared by the Division of Vital Statistics.

(8) Adoption of Adults. The Department of Human Resources has no responsibility in regard to adoption of adults.

(9) Contested Hearings.

(a) If a motion is filed by any party contesting an adoption, the court will set the matter for a contested hearing. The court is required to give notice to all parties who have appeared before the court in the adoption, including the party contesting the adoption and the petitioners. Based upon the court's findings, the adoption proceedings may be dismissed or the motion to dismiss may be denied.

(b) A contested hearing may be transferred to juvenile court upon motion of any of the parties or on the court's own motion. If the contested hearing is held in Probate Court, the judge may proceed immediately to the dispositional hearing after completion of the contested hearing.

(c) Guardians ad litem must be appointed for the adoptee and minor natural parents in a contested adoption hearing.

(10) Appeals. Appeals from any Final Decree of adoption are filed with the Alabama Court of Civil Appeals and must be filed within 14 days from the Final Decree.

(11) Removal of Adoptee From County. After a child has been placed in an adoptive home and prior to issuance of the Final Decree, in independent and agency adoptions, the child may not be removed from the county of the petitioner's residence for a period longer than 15 consecutive days without prior notice to the investigating agency or individual. Children placed by the Department may not leave the state for any period of time without prior approval from the Office of Adoption.

(12) Related Proceedings. If it is determined at any point during the adoption proceedings that other custody actions concerning the adoptee are pending in any other court, a motion must be filed to stay the adoption proceedings until a determination is made by the appropriate court of the pending custody action.

(13) Responsibility for Making Other Plans for Child for Whom Adoption Proceedings Are Final. The responsibility of the County Department is not always ended when adoption proceedings are final. The child may continue to need agency service. If it is deemed necessary to make plans for removal of the child from the petitioner's home and place him elsewhere, the County Department should stand ready to assist in making such plans, and the report to the court should so indicate.

(14) Court and Agency Records of Adoption.

(a) After the petition is filed and prior to the entry of the final decree, the court records of adoption proceedings will only be open to inspection by the petitioners or their attorney, the investigator, and any attorney that is representing the adoptee except upon court order for good cause. Court proceedings in adoption proceedings are confidential and not open to persons other than the parties in interest and their attorneys, except by order of the court.

(b) After the final decree has been entered, the court records will be sealed, kept as a permanent record of the court and withheld from inspection, except by order of the court which entered the final decree.

(c) All adoption files of the Department or other investigating agency are confidential and may not be inspected except with a court order. However, the State Department of Human Resources, Office of Adoption, will release to the adoptive parents, natural parents, or the adoptee who is at least 19 years old, upon request, the non-identifying information described in the second summary sheet noted below. If the natural mother or the natural or presumed father have consented in writing under oath to the release of identifying information, the State Department of Human Resources, Office of Adoption, will, upon request, release such identifying information to the adoptee who is at least 19 years old, including a copy of the adoptee's birth certificate, as it related to the consenting parent.

(d) When a final decree is issued, two separate summary sheets, one containing identifying information and the other containing non-identifying information, on children placed for adoption, including those placed by licensed child-placing agencies and wards placed by the Department and children placed independently are to be sent to the State Department of Human Resources. The summary containing identifying information will be sealed.

1. The sealed summary sheet will contain the following identifying information:

(i) The adoptee's birth name and adoptive name;

(ii) The date and place of birth of the adoptee, except in case of abandonment;

(iii) The circumstances under which the child came to be placed for adoption;

(iv) The physical and mental condition of the adoptee, insofar as this can be determined by a competent medical authority;

(v) The names and last known address(es) of the child's natural parents, along with their dates of birth and Social Security numbers, if known;

(vi) The age of the natural parents at the time of the child's birth;

(vii) The nationality, ethnic background, race and religious preferences of the natural parents;

(viii) The educational level of the natural parents;

(xi) Information pertaining to pre-adoptive brother/ sister relationships; and

(x) Whether the identity and location of the natural father is known or ascertainable.

2. The second summary sheet will contain the following non-identifying information:

(i) Health and medical history of the adoptee;

(ii) Health and medical histories of the adoptee's natural parents;

(iii) The adoptee's general family background, including ancestral information, without name references or geographical designations;

(iv) Physical description of family members;

(v) The length of time the adoptee was in the care and custody of one other than the petitioner; and

(vi) The circumstances under which the child came to be placed for adoption.

(15) Status of Adopted Child. Upon entry of the final decree, the natural parents of the adoptee, except for a natural parent who is the spouse of the adopting parent as in a stepparent adoption, are relieved of all parental responsibility for the adoptee and will have no parental rights over the adoptee. The adoptee will take

the name designated by the adoptive parent(s) and will be treated as the natural child of the adopting parent(s), having all rights and duties of a natural child of the adoptive parent(s) including the right of inheritance. The adoptee may not inherit from his or her natural parents or other biological family who die intestate.

(16) Persons Who May Place Children for Adoption. Only a parent, a parent of a deceased parent, a relative of the degree of relationship specified in the law, the Department of Human Resources, a licensed child-placing agency, or an agency approved by the Department of Human Resources may place a child for adoption. Other persons may not be in the business of placing children for adoption and they will be deemed to be in the business of placing children for adoption if they place more than two unrelated children within a twelve-month period.

(17) The Adult Who Was Adopted as a Child.

(a) Any adoptee who has arrived at the age of 19 shall have the right to receive information from the appropriate agency about his placement. Identifying information pertaining to the adoptee's natural parent, including a copy of the adoptee's birth certificate, shall be given only with the written consent under oath of the natural parent.

(b) Any persons, including adoptees, natural parents and adoptive parents, who have a compelling need for additional non-identifying information that can only be obtained through contact with an adoptee, natural parents or adoptive parents, may petition the court for assistance. The court may direct the Department or another intermediary to establish contact with the adoptee, natural parents or adoptive parents and obtain the requested information without disclosing identifying information to or about the petitioner. The information will then be filed with the court and the court will release the non-identifying information using its own discretion.

(c) When an adoptee reaches age 19, if the natural parents have not consented to release of identifying information, the adoptee may petition the court for assistance. The court will direct the Department or another intermediary to contact the natural parents and determine if they will consent to the release of their identity. If the natural parents consent to release of their identity, the court will direct the release of the information to the petitioner. If the natural parents are deceased, cannot be found, or do not consent to the release of identifying information, the court will weigh the interests and rights of all parties and determine if the identifying information should be released without consent of the natural parents. If the court does release the identifying information without consent of the natural parents, the court

may restrict use of the information, including prohibiting contact between parties.

(18) Release of Children from Health Facilities for Adoption. No hospital or other health facility may release a child to be adopted to any person other than the Department of Human Resources, a licensed child-placing agency, the child's parent, relative by blood or marriage, or a person holding legal custody of the child, unless the release of the child is authorized in writing by one of the child's parents or any agency which holds legal custody of the child after the birth of the child. The hospital is required to send to the Department within 48 hours, the name and address of any person and, in the case of a person acting as an agent for an organization, the name and address of the organization, to whose physical custody the child is released from the hospital for adoption.

(19) Independent Adoptions.

(a) The term "independent adoption" refers to those adoptive placements of children with unrelated individuals arranged outside of the auspices of the Department or a licensed child-placing agency. The term generally does not include related and stepparent adoptions.

(b) Although a pre-placement investigation is required by law, there will be situations when a child is placed without the pre-placement investigation. In those situations, all of the required information for the investigation will be obtained after placement and reported to the court within 60 days of receiving notification of the adoption proceedings. If the child has been in the home less than 45 days when notification of adoption proceedings is received, the worker should visit the child and family in their home within the 45 day period following placement. If the child has been in the home 45 days or more, the Department is to immediately initiate an investigation of the child's circumstances upon receipt of a request for a pre-placement investigation or an adoption petition.

(c) Fees for Investigations in Independent Adoptions. The Department is required to collect a fee of $300.00 for investigation services in certain adoptions. Unless waived by the Department, the fee will be charged to the petitioners in all adoptions except those in which an investigation is specifically not required by statute, e.g., stepparent adoptions and closely related adoptions. The fee is also not to be collected for investigations where parental rights have been terminated, or in those adoptions involving children placed for adoption by the Department or a licensed child-placing agency, or in cases in which the investigative services were performed by a licensed child-placing agency.

The fee is also not to be collected without evidence of the prior court approval for the Department to collect the fee.

1. The Department shall waive the fee for the investigation in cases of indigency of the petitioners where the family's gross income does not exceed 100% of the Annual Federal Poverty Income Guidelines.

2. The Department may waive the fee for other good cause under the following circumstances:

(i) Where the Department determines that the best interests of the child would not be served through imposition of the fee for the adoption investigation, including but not limited to the following circumstances:

(I) Where the petitioners are related to the child beyond the degree of relationship required by law to exempt them for an investigation and imposition of the fee would prevent the adoption of child, or

(II) Where the child has lived in the home of the petitioners for several years and imposition of the fee would prevent adoption of the child, or

(III) Where the child's relationship with siblings would be injured or severed if the adoption does not proceed and the imposition of the fee would prevent the adoption of the child, or

(IV) Where the child has diagnosed special needs for medical care or appliances, counseling, therapy, educational tutoring, or other treatment and the imposition of the fee would deny the child these services and prevent the adoption of the child, or

(V) Where the child is one of a sibling group of three or more children being adopted by the same petitioners and imposition of the fee would prevent the adoption of the child, or

(VI) Where the child's approved foster parents are adopting the child independently with the parents' consent and with the approval of the Department of Human Resources, and imposition of the fee would prevent the adoption of the child, or

(VII) Other unusual circumstances in which the Department determines that imposition of the fee would be contrary to the best interests of the child and would prevent the adoption of the child; or

(ii) Where the Department already has in its written files, through previous home studies, casework activities, investigations, etc. the information needed to report to the court on the pending adoption.

3. The fee may not be waived in cases where violations of Alabama's statutes relating to adoption and placement of children for adoption have occurred, such as placement by an unauthorized party, transporting the child across state lines in violation of the Interstate Compact on Placement of Children (irrespective of later attempts to comply with the ICPC), or failure to obtain a pre-placement investigation where one is required.

Author: Jeanette Gautney
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 10, §§26-10A-1 through 26-10A-38, and Title 38, Chapter 7.
History: Effective October 11, 1983. Emergency amendment effective February 6, 1989. Permanent amendment effective May 10, 1989. Emergency amendment effective June 1, 1990. Succedent permanent amendment effective September 7, 1990. Succedent emergency amendment effective January 23, 1991. Succedent permanent amendment effective May 9, 1991. **Amended:** Effective November 10, 1992.

660-5-22-.05 Bringing Or Sending A Child Into The State For The Purpose Of Placement Or Adoption.

(1) Before a child can be brought or sent into the State for purposes of the placement or adoption, the consent of the State Department is required. This is true whether the child is being placed by an agency holding custody or whether the child is being placed independently.

(2) When the County Department learns of a proposed placement of this nature, it is important to let the prospective adoptive parents know of the statutory provision for prior consent of the State Department. They should be advised of the agency's responsibility as a protective one both for them and the child. They should be acquainted with the fact that agency placements offer safeguards and that there are certain inherent risks in placements without benefit of agency service.

(3) If they wish to pursue the original plan, the worker has responsibility to secure identifying information about the parent

or parents and the child so that an agency, in the state where the child is, may be requested to give cooperative service by interviewing the parent(s) and obtaining a birth record, medical, social, background and custody information to be sent to the State Department.

(4) At the same time, the County Department should proceed with a study of the proposed adoptive home. Home study information will be needed along with information from an agency in the child's state of residence so that a decision may be made on the soundness of the proposed plan and so that consent may be given, if appropriate, for the child to be brought into the State.

(5) The State Department should be advised as early as possible of the proposed placement, and correspondence to the out-of-state agency should be routed through the State Department for transmittal.

Author:
Statutory Authority: Code of Ala. 1975, Title 28, Chapter 7.
History: Effective October 11, 1983.

660-5-22-.06 Subsidized Adoption.

(1) Adoption subsidy is provided to facilitate the adoption of children with special needs by assisting with the removal of financial barriers to adoption. Adoption subsidy may be provided to children who meet special needs criteria, as well as other eligibility requirements described herein. Adoption subsidy encompasses the principles of the Department's practice model including permanency, stability, well-being, individualized services that are family centered and culturally responsive, community collaboration and professional competence. Adoption subsidy promotes the timely achievement of permanency for children and, through appropriate planning, promotes the opportunity for children to experience love, feelings of belonging and nurturing in a family environment. Adoption subsidy supports the practice of providing family centered and culturally responsive adoptive placements for children.

(2) Requirements and procedures of adoption subsidy are

(a) In order to qualify for adoption subsidy children must meet all four of the following criteria:

1. The child must be legally free for adoption and the Agency/Department have determined and documented that a child cannot or should not be returned to the home of his parents. For Department cases, this is accomplished through the Individual Service Plan and before the permanency goal of adoption is agreed upon. In most

cases, termination of parental rights is the last step in meeting this requirement.

2. Children must be determined as having special needs. Adoption subsidy is predicated on the belief and assumption that children with special needs require more than ordinary parental duties from the adoptive parents; that children with special needs usually incur extra expenses; and that parenting children with special needs is more challenging that parenting children without special needs. It is the responsibility of the child's DHR social worker to determine whether the child being placed for adoption has special needs and there are special circumstances that make adoption unlikely without a subsidy. It is reasonable to conclude that the child cannot be placed for adoption, due to a specific factor or condition, without providing adoption subsidy and/or medical assistance through Medicaid. One or more of the following conditions must exist for a child to be determined as having special needs.

(i) Physical or mental disability must have been documented in the record as evidenced by a licensed medical doctor or qualified mental health professional. Normal childhood illnesses do not meet this criterion. Physical disability is defined as a chronically debilitating, progressive, or fatal disease which requires assistance for the child in activities of daily living or requirement of assistance of another person or mechanical device for movement from place to place. Mental disability is defined as a condition which is characterized by impaired intellectual development and impedes the ability to function independently as diagnosed by a licensed medical doctor or qualified mental health professional.

(ii) The child has a known emotional disturbance/ behavioral issue that requires on-going treatment and that has been documented by a mental health professional. Emotional disturbance is defined as an emotional condition which impedes the child's ordinary developmental progress as diagnosed by a medical doctor or qualified mental health professional.

(iii) The child has known and documented factors that place the child at recognized high risk of developing a physical or mental disability at a future time. At the time of placement, the child may not have a documented diagnosis or show any signs of a physical or mental disability. Nonetheless, there are known and documented factors, which are captured in the

non-identifying background summary, that place the child at high risk for developing such conditions. Money payment is deferred until the onset of symptoms, but the adoption subsidy agreement must be signed and in effect at the time of placement or prior to the final decree of adoption. High risk of a physical or mental disease means a potentially debilitating condition as diagnosed by a licensed medical doctor or qualified mental health professional.

(iv) Children who are five (5) years of age or older.

(v) The child is a member of a sibling group of two (2) or more being placed for adoption in the same home at the same time.

(vi) A child has racial or ethnic factors that make it unlikely that the child will be adopted without a subsidy. Documentation of how the child's racial or ethnic factors prohibit him/her from being adopted without subsidy must be submitted to the Office of Permanency, Family Services Division. Concurrence must be received from the Office of Permanency prior to the Department entering into any adoption subsidy agreement based on this criterion. Race and ethnicity includes, but is not limited to, African American, Hispanic, Native American, Asian, or other heritage which may prevent a child from being adopted.

3. In most cases, at the time of initiation of adoption proceedings, a child should be in the care or custody of the Department or a public or private child placement agency through on of the following:

(i) a voluntary placement agreement; or

(ii) a voluntary relinquishment; or

(iii) an involuntary removal of the child from the home in accordance with a judicial determination that remaining in the home would be contrary to the welfare of the child. The term "care" refers to the responsibility vested in the Department or public or private agency with such responsibility encompassing the planning provided by the Department or agency when the child has a permanency goal of adoption

4. Reasonable efforts must be made to locate an adoptive resource for a child without benefit of an adoption subsidy or medical assistance under Medicaid, except where it would be contrary to the child's best interests because of the existence of significant emotional ties

with the prospective adoptive parents while in the care of these parents as a foster care child. In cases involving foster parents, where there is evidence to support the existence of potential detriment to the child by severing emotional ties with the foster parents who are prospective adoptive parents, no evidence is necessary that reasonable efforts have been made to place the child without subsidy. In such situations, the ISP team should determine that it is in the child's best interest to remain in a home which could not be an adoption resource without an adoption subsidy and medical assistance. Reasonable efforts to locate adoptive parents who can accept the child without a subsidy are not required for foster parent adoptions when there are significant emotional ties that make it in the child's best interest to remain in the foster/adoptive home.

When the Department has placement responsibility for a child with a permanency goal of "adoption with an unidentified resource", it is necessary to register children with local, regional and national adoption exchanges; publicize the need for adoptive homes in general and for specific children; and make referrals to specialized public or private agencies.

(3) Types and Categories of Adoption Subsidies The Department of Human Resources is designated to administer both the federal and state adoption subsidy programs. Federal title IV-E adoption subsidy is the preferred category. Financial eligibility for both federal IV-E and state adoption subsidy is determined by the State Department Office of Child Welfare Eligibility, Family Services after the initiation of a request by the child's worker. In determining a child's eligibility for either federal or state adoption subsidy, there is no means test for the prospective adoptive parents.

(a) Title IV-E Federal Adoption Subsidy - Title IV-E adoption subsidy provides a monthly subsidy payment, eligibility for Medicaid benefits, Title XX services, and payment for non-recurring adoption expenses. In addition to those children who have been eligible for IV-E foster care maintenance payments and thus IV-E adoption subsidy payments, there are two other groups of children who may considered for federal adoption subsidy benefits. These two groups would not have been eligible for IV-E foster care maintenance payments, but may be IV-E eligible for the purpose of adoption subsidy only. These two groups are the "applicable child" and "non-applicable child."

1. The term "applicable child," as used in adoption subsidy, describes a child who was determined ineligible for IV-E foster care maintenance payments because the child did not meet the former AFDC eligibility points at

entry into care, but the same child may now be eligible for federal IV-E adoption subsidy payments. The term "applicable child" is based on the age of the child in the year the adoption subsidy agreement is entered into. The concept of "applicable" children for adoption subsidy is being phased in over a nine year period from 2010 to 2018.

(i) The applicable child must meet the following requirements at the time of initiation of adoption proceedings.

(I) The applicable child is in the care of the Department, a licensed public or private child placement agency, or an Indian tribal organization when adoption proceedings are initiated; and

(II) The applicable child is in care pursuant to an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(III) The applicable child entered care pursuant to a voluntary placement agreement or a voluntary relinquishment. If a child entered care through the method of a voluntary placement agreement that child must actually have received at least one title IV-E foster care maintenance payment to be eligible for federal IV-E adoption subsidy.

(ii) Applicable children may also be eligible for federal title IV-E adoption subsidy in certain other conditions.

(I) The applicable child meets all medical and disability requirements of title XVI with respect to eligibility for Supplemental Security Income(SSI) benefits; or

(II) The applicable child was residing in the same placement with the child's minor parent who is IV-E eligible and a foster care child in placement through an (a) involuntary removal of the minor parent child from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child, or (b) a voluntary placement agreement or voluntary relinquishment; or

(III) A child of any age who has been in foster care under the Department's responsibility for at least 60 consecutive months (5 years) at the time an adoption subsidy agreement is entered into is considered an "applicable child." These children must meet the requirements of being in the Department's care at the initiation of adoption proceedings; have best interest language in the first court order; or entered into care through voluntary agreement or voluntary relinquishment.

(IV) Any age sibling(s) of an applicable child who meets special needs criteria in their own right and who is placed in the same adoption placement of the applicable child may be considered eligible for federal IV-E adoption subsidy. Sibling(s) must meet the requirements of being in the Department's care at the initiation of adoption proceedings; have best interest language in the first court order, or have entered into care through a voluntary agreement or voluntary relinquishment and meet the definition of "special needs" in his own right.

2. The child who does not yet meet the age for being phased in as an applicable child is referred to as "non-applicable child." This group of foster care children have been determined ineligible for IV-E foster care maintenance and have not yet reached the age requirements nor does the child meet the other avenues for IV-E eligibility. This child continues to have the eligibility requirements in place prior to the implementation of the "applicable" and "non- applicable" concept of eligibility. The "non-applicable child" must meet the following requirements to be eligible for federal IV-E adoption subsidy.

(i) Be removed from the home of a specified relative or had been living with a specified relative within the past six months and placed in foster care in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child, or

(ii) Be removed from the home of a specified relative or had been living with a specified relative within the past six months and placed in foster care in accordance with a voluntary placement agreement and received at least one title IV-E foster care maintenance payment while under the voluntary placement agreement.

(iii) The non-applicable child must meet the requirements with respect to the former AFDC program of July 16, 1996, or

(iv) The non-applicable child must meet all of the requirements of title XVI with respect to Supplemental Security Income benefits, or

(v) Be a child of a IV-E eligible foster care child, living in the same placement and whose payments in foster care are IV-E foster care maintenance payments, or

(vi) Be child who was eligible for title IV-E adoption subsidy in a previous adoption which is dissolved or the adoptive parents have died. Verification of the child's special needs determination and previous IV-E eligibility is required.

(vii) The Department must have determined the child to be a child with special needs.

3. It is possible that a child, who was ineligible for title IV-E foster care maintenance payments due to the absence of "reasonable efforts" language being included in the initial court order or a court order issued within 60 days of entering care, could be eligible for IV-E adoption subsidy. "Reasonable efforts to prevent removal" language in the initial court order or a court order issued within 60 days of entering care is not a requirement for IV-E adoption subsidy payments." The Department makes this determination.

(b) State Adoption Subsidy - State adoption subsidy provides a monthly subsidy payment. To be eligible for State adoption subsidy, the child must meet the criteria for special needs and have private income less than the age appropriate foster care maintenance payment. Medicaid is also available for certain children who meet criteria established to determine the need for medical or rehabilitative care. The federal subsidy for non-recurring expenses is also available to all children eligible for State Adoption Subsidy. State adoption subsidy continues up to age nineteen (19) years (age of majority). If the child is still in high school with a goal of graduation, the state adoption subsidy may continue until the child graduates from high school, is no longer enrolled in high school, or attains the age of 21, whichever comes first.

1. The Department assures that health insurance for special needs children for whom there is an adoption subsidy agreement between the state and the children's adoptive parent(s) is available. The Department

recognizes that special needs children are likely to need continued medical, mental health or rehabilitative care. Health insurance can be title XIX Medicaid or a comparable medical plan. If the child does not qualify for Medicaid, there must be documentation that the adoptive parents can and will provide private health insurance for the adoptive child. Private health insurance meets the requirement for the child to have health insurance coverage.

2. A child is eligible for state adoption subsidy Medicaid when both of the following criteria are met.

(i) At the time the adoption subsidy agreement is negotiated, the child who was eligible for Medicaid under the State's approved Medicaid plan for foster care children will be eligible for Medicaid through the adoption subsidy Medicaid. If the child was not eligible for Medicaid while in foster care and at the time the adoption subsidy agreement was negotiated, a determination must be made of whether the child would be eligible for Medicaid if the standards and methodologies of the title IV-E foster care program were applied, rather than the former AFDC standards and methodologies that are applied to state foster care Medicaid. If the child is not eligible for one of the foster care Medicaid categories and the adoptive parents cannot or will not provide health insurance, eligibility for SOBRA Medicaid and ALLKids is explored.

(ii) It has been determined that an adoptive placement without medical assistance cannot be made because the child has known, pre-existing and on-going needs which are professionally documented for medical, mental health, or rehabilitative care.

3. When establishing a child's need for continued medical, mental health or rehabilitative care, a child's conditions, potential or actual, that would cause or deter the child's adoption without Medicaid/health insurance coverage are considered. These conditions include, but are not limited to the following ;

(i) the child's need for regular prescription medication;

(ii) pre-existing non-routine medical conditions at the time of placement;

(iii) emotional or behavioral disorders requiring on-going treatment;

(iv) need for on-going speech, physical or other rehabilitative therapies;

(v) need for day treatment or special education services that cannot be provided through the educational system;

(vi) need for nursing care or other specialized medical or rehabilitative services;

(vii) the child's known and professionally documented high risk background which could increase the likelihood of serious medical, emotional or adaptive problems in the child's future but onslaught of symptoms can be expected while the child is still a minor.

4. A child's Medicaid eligibility continues as long as the adoption subsidy is in effect. If the state adoption subsidy is continued beyond age nineteen, Medicaid is also extended. However, if Medicaid eligibility is based on receiving state adoption subsidy, the Medicaid cannot extend beyond the child's twenty-first birthday.

5. If a child who receives a state adoption subsidy and Medicaid moves to another state, the Medicaid may be reciprocated by the new resident state provided the Interstate Compact on Adoption and Medical Assistance procedures are followed.

(4) Non-Recurring Adoption Subsidy Expenses - One time adoption expenses include reasonable and necessary expenses directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. All children eligible for an adoption subsidy, either federal or state, are eligible for a federal non-recurring subsidy.

The Department may reimburse adoptive parents an amount up to $1000 per child for reasonable and necessary non-recurring expenses associated with the finalization of adoption of children eligible to receive subsidy. Specified procedures for reimbursement of adoptive parents for non-recurring expenses require adoptive parent to submit to the County Department the following:

(a) A written request for reimbursement of payment filed no later than twelve months from the date of the final adoption decree;

(b) Original paid receipts;

(c) An itemized bill listing the full name of the child, date of service, and items or services received; and

(d) A copy of the Final Adoption Decree.

The County Department is responsible for reviewing all documents for accuracy and submitting them to the State Department within fifteen months of the final adoption decree for processing and reimbursement. Reimbursement is made directly to the adoptive parent.

Direct payment for non-recurring expenses may be made directly to an attorney for the provision of non-recurring legal expenses associated with the finalization of an adoption as all or part of the maximum amount of $1000 for non-recurring expenses. For direct payment, a representing attorney must submit to the State Department within 12 months of the date of the final adoption decree the following documentation:

1. A written request for payment submitted no later than twelve months from the date of the Final Decree;

2. An original itemized bill which contains the full name of the child for whom services were rendered. The adoptive parent must sign the original bill confirming the provision of services and indicate agreement for payment to be made directly to the attorney.

3. A current Request for Taxpayer identification Number and Certification (W-9); and

4. A copy of the Final Adoption Decree.

(5) State Medical Time-Limited Subsidies - A state funded medical subsidy payment is a special needs subsidy that is limited to the time period of the needed service, and may involve a one-time payment or several payments. The adoptive family's medical insurance and other public and voluntary community resources must be explored to determine whether treatment and related costs can be covered without a subsidy. Prior approval by the State Department is to be secured for a state funded medical subsidy before the adoptive placement and before completion of the adoption subsidy agreement. The two types of state funded time limited medical subsidy are counseling services and orthodontia services subsidy.

(a) A state funded medical subsidy may be awarded at the Medicaid rate for outpatient counseling only in the following situations.

1. A child is in therapy with a non-Medicaid provider at the time of a foster parent adoptive placement; or

2. There is no Medicaid provider located in close proximity to the child at the time of placement in a non-foster parent adoption; or

3. Payment is made at the Medicaid rate and is secondary to private insurance.

Prior to any payment for counseling services being made the following process must occur. Known and documented pre-adoptive issues are the focus of state funded therapeutic counseling services. Professional documentation of the child's need for therapeutic counseling services is submitted to the State Department for approval. Psychological evaluations used to substantiate need must be current to within six months of the request for therapeutic counseling services. Written approval from the State Department is to be received before negotiation and completion of the adoption subsidy agreement.

Counseling services may be awarded for a maximum of one year. Should a child receive such services for a year but continue to need the service, professional documentation regarding current circumstances is submitted to the State Department. The professional documentation must be based on pre-adoptive issues which warrant continuation of counseling subsidy beyond one year. Verification that there is no Medicaid provider within reasonable proximity to the child and family is necessary.

(b) A state funded medical subsidy may be made for orthodontia services if the work is determined to be medically necessary and is in progress or is set to begin within ninety days of adoptive placement. Prior to adoptive placement, the State Department must provide to the county department written approval for the orthodontia services that is based on the orthodontist's professional documentation of medical necessity and a written estimate of the costs of the services. Orthodontia services should be completed prior to legal finalization of the adoption.

(6) Adoption Subsidy Amounts - The amount of the adoption subsidy is determined case by case, through negotiation and agreement with the adoptive parents and the Department, and considers the adopting parent's circumstances and the needs of the child being adopted. The amount of adoption subsidy cannot exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home. A child's private income is considered in negotiation of the adoption subsidy amount. The amount of the actual adoption subsidy payment may be less that the Department's standard foster care maintenance payment because the child's income is considered in the negotiation of the adoption subsidy amount, as it was also

considered in the actual foster care maintenance payment. The amount the prospective adoptive parents will receive should consist of the adoption subsidy payment plus the child's private income. It is the responsibility of the Department to notify the source agency of the child's private income that the child will be receiving an adoption subsidy and whether the adoption is a federal IV-E subsidy or a state subsidy.

(a) The rate structure of adoption subsidy payments is based on the type of care the child received while in foster care prior to adoptive placement. The rate structure for adoption subsidy is consistent with the premise that any child receiving adoption subsidy is a special needs child who may have greater than ordinary or usual care needs. The Department's various foster care rates are considered as supplements to the basic foster care maintenance payment and therefore the rate structure for adoption subsidy payments is consistent with the rates that would have been paid, including the supplements had the child remained in foster care.

1. Regular subsidy rate is paid for children who meet the special needs criteria and for whom a determination has been made that the child would be unable to be adopted without the adoption subsidy payment. This is a negotiated rate and can never exceed the amount the child would have received for basic foster care maintenance.

2. Level One Difficulty of Care adoption subsidy is paid for the child who received a Level One Difficulty of Care foster care maintenance payment prior to the adoptive placement. In addition to the regular adoption subsidy rate, the child may receive a $50.00 Level One Difficulty of Care adoption subsidy payment. This rate is negotiated and approved by county departments.

3. Therapeutic adoption subsidy payments may be available to assist families who are adopting a child with emotional and behavioral needs which require additional therapeutic services to meet the child's needs and to prevent the likelihood of requiring a more restrictive setting. The State Department approves a therapeutic adoption subsidy payment. The need for therapeutic adoption subsidy must exist at the time of the adoptive placement or be linked to documented information regarding the child's background and circumstances prior to adoptive placement. Criteria for a therapeutic adoption subsidy are:

(i) Eligibility for State or Federal Adoption Subsidy;

(ii) A diagnosis from the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM 5) current to within six months of application;

(iii) Behaviors that may pose a risk of serious harm to self or others through the display of aggressive and/or delinquent activities, destructiveness, resistance to authority, sexual disturbance and are present at the time of the request;

(iv) Behaviors exhibited in more than one setting; and

(v) Additional services required to meet the therapeutic needs of the child includes, but is not limited to, substitute care, 24 hour awake supervision, intensive therapy or psychiatric services that focus on therapeutic issues not managed through medication and that routinely requires more than two or more visits per week.

Supporting professional documentation is required for approval of therapeutic adoption subsidy rate and must be current to within six months of the request for therapeutic adoption subsidy rate. Documentation for the approval of therapeutic adoption rate includes, but is not limited to, psychiatric or psychological evaluations; therapist progress notes indicating therapeutic efforts and outcomes; treatment plans; educational records; health records; and Multi-Systemic Assessment Tool (MAT) where available.

Children eligible for and receiving state funded therapeutic adoption subsidies are subject to having their continued need for therapeutic adoption subsidy reviewed. Current information and documentation is required to determine whether a child’s need for state funded therapeutic adoption subsidy continues to exist. If supporting documentation no longer substantiates that a child requires therapeutic care, the state funded therapeutic adoption subsidy rate may be changed. The amount of the state funded adoption subsidy rate should be re-negotiated with the adoptive parent(s) and changed to the basic age appropriate adoption subsidy rate based on the child’s current needs. The special need that originally established the child as a special needs child for adoption subsidy purposes is not to be reviewed. There is no review of children who receive a federal IV-E therapeutic adoption subsidy.

Therapeutic adoption subsidy rate and a counseling subsidy cannot be awarded at the same time, because counseling is a service provided as part of therapeutic services and is included in the therapeutic adoption subsidy rate.

4. Medically fragile adoption subsidy payments may be approved for children with special health care needs related to chronic physical, developmental, behavioral or emotional conditions. Prior to adoptive placement, there must be a determination that the child continues to require medically fragile care received while in foster care placement and that adoption is not likely to occur without a medically fragile adoption subsidy.

Approval of medically fragile adoption subsidy is made by the State Department. There must be current supporting professional documentation regarding the need for medically fragile adoption subsidy. Current supporting professional documentation includes a letter of professional assessment, completed within three months prior to the request, by the child's attending physician)s) specifying the child's diagnosis and prognosis and defining what extra-ordinary and specialized care and medical treatment the child requires.

Children eligible for and receiving state funded medically fragile adoption subsidies are subject to having their continued need for medically fragile adoption subsidy reviewed. If the child no longer needs medically fragile care, as supported by professional documentation, the amount of adoption subsidy payments is re-negotiated and changed to the appropriate adoption subsidy amount based on the current needs of the child, but not to exceed the age appropriate standard foster care maintenance payment. There is no review of children who receive a federal IV-E medically fragile adoption subsidy.

Medically fragile subsidy rate and a counseling subsidy cannot be awarded at the same time because counseling is a service provided under the medically fragile services and included in the medically fragile adoption subsidy rate.

(7) Child's Private Income and Amount of Adoption Subsidy payment - A child's private income may be from various sources and must be considered when an adoption subsidy agreement is negotiated with the prospective adoption parents. The source of the income determines how the child's private income is managed.

(a) A child eligible for and receiving Supplemental Security Income (SSI) benefits meets the definition of a child with special needs relative to adoption subsidy. There are no additional criteria that a child must meet to be eligible for a federal IV-E adoption subsidy when eligibility is based on meeting SSI requirements. In negotiating an adoption subsidy agreement for a child who receives SSI benefits, it is necessary to consider the monthly SSI payments in establishing the child's specific adoption subsidy amount. If the amount of the child's monthly SSI is equal to or greater than the regular adoption subsidy payment rate, a regular adoption subsidy payment is deferred and this is noted on the Adoption Subsidy Agreement.

Adoption subsidy payments are not deferred for children receiving SSI and approved for either therapeutic or medically fragile adoption subsidy payments. The SSI is used to make the regular adoption subsidy payment while the medically fragile or therapeutic adoption subsidy payment is made separately.

After the adoption becomes final, the adoptive parents may apply for the child's SSI to continue, taking into account the adoptive parents' income. It is the responsibility of the adoptive parents to inform the Department of the decision from Social Security Administration to continue SSI benefits for the child. Although the adoptive child's SSI may terminate at the adoption finalization, Medicaid continues for twelve months after the SSI terminates. After twelve months of continued Medicaid, the Department certifies to Alabama Medicaid federal adoption Medicaid eligibility.

(b) Social Security and Veteran's Administration (VA) Benefits - If a child receives Social Security or VA benefits and meets the criteria for special needs, either a federal or state adoption subsidy agreement may be entered into, depending upon the child's eligibility for IV-E. Social Security and veterans benefits can continue after finalization of the adoption and should be considered in negotiations on the amount of the adoption subsidy.

(c) A child may have private income which is inaccessible to the child until attaining the age of majority. The exact circumstances determines whether the child is eligible for a federal IV-E adoption subsidy or a state adoption subsidy.

(8) Adoption Subsidy Agreements - The Department has the responsibility for informing prospective adoptive parents about the availability of adoption subsidy for the adoptive child. The Department is responsible for negotiating the amount of the adoption subsidy and to complete the adoption subsidy agreement. Such agreement should be completed and signed by the adoptive parents and the County Department Director or Agency Designee at the time of adoptive placement but must be signed prior to the

final decree of adoption. Payments will not begin until the adoption subsidy agreement is signed by the child's worker and the adoptive parents.

(a) An adoption subsidy agreement is a written agreement, binding on all parties, between the Department and the prospective adoptive parents. Adoption Subsidy Agreements must meet the following requirements:

1. Signed by the adoptive parents and the child's worker at the time of adoptive placement, but no later than the final decree of adoption;

2. Be in effect before any adoption subsidy payments are made;

3. Specify the duration of the agreement;

4. Specify the nature and amount of any payment, services, and assistance to be provided under the agreement;

5. Specify the child's eligibility for Medicaid and title XX services;

6. Specify that the agreement remains in effect regardless of the State of residence of the adoptive parents; and

7. Specify that if the adoptive parents move to another state and needed services specified in the agreement are not available in the other state, the Department is financially responsible for providing the specified service(s).

(b) Prior to negotiating the adoption subsidy agreement with the prospective adoptive parents, the following steps must occur:

1. The child is established as meeting the special needs adoption subsidy criteria;

2. The category of eligibility is verified as either federal or state adoption subsidy;

3. Determination of whether child meets the criteria for state adoption subsidy Medicaid, if child did not receive Medicaid in foster care;

4. Determination of whether a child who was receiving therapeutic or medically fragile foster care payments can be adopted without the continuation of such payments. If the determination is that the child cannot be adopted

without the continuation of such payments, prior approval from the State Department must be requested and received for the therapeutic or medically fragile rate of adoption subsidy.

5. If the child needs counseling or orthodontia subsidy, prior approval must be requested and approved by the State Department before negotiation the adoption subsidy agreement.

(c) Appropriate adoption subsidy forms must be completed and signed by the adoptive parents and the Department representative. A copy of the signed agreement must be provided to all parties to the agreement.

(9) Special Subsidy Situations - Federal IV-E adoption subsidy regulations provide circumstances under which a child may continue to be eligible for federal IV-E adoption subsidy.

(a) A child who was eligible for a IV-E adoption subsidy at the time of a prior adoption shall be treated as meeting the requirements for a federal IV-E adoption subsidy in the following situations;

1. After the final adoption decree is issued, the adoptive parent's rights are terminated and the adoption is dissolved; or

2. The adoptive parent(s) dies; and

3. The child would not meet the IV-E requirements for a non-applicable child at the time of the adoption dissolution, but would meet such requirements if the prior adoption were treated as never having occurred; and

4. The child meets the criteria for special needs.

(b) In the case of an applicable child whose adoption has dissolved, the child meets the requirements for a federal IV-E adoption subsidy in the following circumstances.

1. The child is available for adoption because the parental rights of the adoptive parents have been terminated; or

2. The child's adoptive parents have died; and

3. The child meets the criteria for special needs.

(c) Any eligible child for whom there is a federal adoption subsidy agreement in effect is eligible for Medicaid in the State in which the child remains. Should a child receiving a federal IV-E adoption subsidy move with the adoptive family to

another state, Medicaid is awarded in the new state of residence. Medicaid in these situations is issued in the child's new state through the Interstate Compact on Adoption and Medical Assistance (ICAMA).

(d) A child who is in a legal guardianship arrangement and has been receiving kinship guardianship payments, for purposes of determining financial eligibility for adoption subsidy payments, is treated as never having received kinship guardianship payments. The placement of such child with the relative guardian involved and any kinship guardianship payments made on behalf of the child shall be considered never to have been made, relative to the child's financial eligibility for adoption subsidy payments. However, the adoptive child must meet all adoption subsidy requirements including "special needs." A child who has been in a legal kinship guardianship arrangement and that arrangement is dissolved and the plan for the child is adoption, that child must meet the special needs criteria established for the Adoption Subsidy Program.

(e) Children placed for adoption by a licensed public or private child placing agency (LCPA) may be eligible for a federal IV-E adoption subsidy and a non-recurring adoption subsidy payment if the child meets the adoption subsidy criteria. The LCPA is responsible for submitting evidence of eligibility to the State Department of Human Resources for a determination of eligibility. State DHR negotiates the adoption agreement with the prospective adoptive parents and administers the subsidy agreement. The LCPA shall continue supervisory responsibilities until the final adoption decree is issued.

(f) A child who is independently placed for adoption may be eligible for an adoption subsidy if:

1. The child is eligible for Supplemental Security Income (SSI) at the time the adoption petition is filed; or

2. The child received title IV-E adoption subsidy in a previous adoption which is now dissolved and the adoptive parents' rights have been terminated, or the adoptive parents are deceased and the child continues to meet the special needs criteria.

(g) Both federal and state adoption subsidy programs are intended to move special needs children out of the foster care system and into permanent hones. No adoption subsidy payment can be made in the case of an international adoption to

1. A child who is not a citizen or resident of the United States; or

2. A child adopted outside of the United States or was brought into the United States for the purpose of being adopted and could be considered a child with special needs.

3. The only exception to the international adoption exclusion is if the initial international adoption of the child by the adoptive parents fails and the child is subsequently placed into foster care. The child would then be required to meet all of the adoption subsidy requirements.

(10) Periodic Review of Adoption Subsidy Payments

(a) It is the responsibility of the adoptive parents who are receiving adoption subsidy payments to keep the Department informed of the adoptive child's circumstances which may make the child ineligible for payments or eligible for a different amount of payment. In specific circumstances, a periodic review may be necessary. The special needs that qualified a child for adoption subsidy are always considered to exist and are never re-considered in any review of adoption subsidy. The adoption subsidies that may be reviewed are

1. State funded medically fragile or state funded therapeutic adoption subsidy payments may be reviewed. Adoptive parents may receive a request for information that may impact the adoption subsidy payments. Professional documentation from the child's doctors and/ or therapists specifying the child's diagnosis, prognosis and the specialized care or services the child continues to require must be provided to the Department.

(i) If the information received by the Department indicates a substantial change in the conditions that caused a need for state funded medically fragile or therapeutic adoption subsidy, from when the adoption subsidy agreement was signed, the department may, after notice to the adoptive parent(s) modify the state funded adoption subsidy agreement, services, subsidy payment or any combination of these.

(ii) If the above information is not received, the state funded medically fragile or therapeutic adoption subsidy payment is subject to being reduced to the regular adoption subsidy rate. The adoptive parent should receive notice of any change in the adoption subsidy payment rate and may request a review if the child's current circumstances. The age appropriate regular adoption subsidy payment is not impacted by a change in the state funded medically fragile or therapeutic subsidy.

2. State funded counseling services can only be extended beyond one year if the adoptive parents submit professional documentation that supports and verifies the need to continue state funded counseling 4.services. There must also be verification that no Medicaid provider is within reasonable proximity to the child and family.

3. A state adoption subsidy for a child past the child's nineteenth birthday must be approved for extension during the month that the child turns nineteen. Thereafter, it must be reviewed annually. The State Department is responsible for sending the adoptive parent(s) review/ report forms. Adoptive parents must inform the State Department if the child is still attending high school and submit documentation on the school or school system's letterhead verifying enrollment and anticipated date of graduation.

4. Title IV-E adoption subsidies for children age 18 up to 21 must be approved during the month the child turns 18 and annually thereafter until the child reaches 21. The State Department is responsible for sending review/ report forms to adoptive parent(s). It is the responsibility of the adoptive parents to inform the State Department if the child remains in the adoptive parents' care and continues to meet criteria for the extension of IV-E Adoption Subsidy as outlined in the forms sent to the adoptive parents. Supporting professional documentation that verifies how the child meets the criteria for continuing the IV-E Adoption Subsidy must be sent to the State Department.

(11) Continuation of Adoption Subsidy Payments and Other Changes

(a) Alabama has elected to continue federal IV-E adoption subsidy payments and Medicaid for certain IV-E eligible children after age 18 and up to age 21 who meet certain criteria. The State Department is responsible for working with adoptive parents to determine whether federal IV-E adoption subsidy can continue after age 18 and up to age 21. In order for federal IV-E adoption subsidy payments to continue after age 18 and up to age 21, professional documentation must be submitted to the State Department substantiating that one of the following conditions exist.

1. The adoptive child is determined by a doctor to be physically or mentally disabled; or

2. The adoption subsidy agreement was entered into after the child attained the age of 16 and one of the following criteria applies to the child:

(i) Currently enrolled in high school; or

(ii) Participating in GED preparation classes; or

(iii) Currently enrolled in a college or a university, full or part time; or

(iv) Currently enrolled in a vocational or trade school; or

(v) Participating in Job Corps; or

(vi) Participating in classes on resume writing and intervies skills; or

(vii) Employed at least 80 hours per month (could be employed full time or part time, at one or more employers); or

(viii) Incapable of participating in any of the above activities due to a medical condition; or

(ix) Other category is included to capture exactly what activity the child may be involved that pertains to education and employment.

(b) Alabama has elected to continue state adoption subsidy, and if applicable Medicaid, for certain children after age 19 and up to age 21 if the child is still in high school with a goal of graduation. Documentation of enrollment in a viable high school program on school letterhead is required along with anticipated date of graduation. State adoption subsidy will continue until the child graduates from high school or attains the age of 21, or is no longer in high school, whichever comes first.

(c) Adoption subsidy payments may increase due to a child reaching certain age ranges. The age ranges are 0-2, 3-5, 6-12, and 13-18. Age appropriate payment increases should be made annually. Adoption subsidy payments may increase if the legislature grants an across the board increase in foster care board rates.

(d) Adoptive parents should immediately notify the State Department in writing or through electronic mail when there is a change of address. Adoption subsidy payments are not forwarded.

(12) Termination of Adoption Subsidy Payments

(a) Once a child has been determined eligible for a federal IV-E adoption subsidy, the child remains eligible and the adoption subsidy payment continues, unless one of the following circumstances occurs.

1. The child reaches the age of 18 and does not meet the requirements for "Continuation of Federal IV-E Adoption Subsidy Payments After Age 18;" or

2. The child continued to receive a federal IV-E adoption subsidy past age 18 due to a documented mental or physical disability, but has now attained the age of 21; or

3. The adoptive parent(s) are no longer legally responsible for the support of the child who has not attained the age of 18; or

4. The child is no longer receiving support from the adoptive parent(s); or

5. The child becomes legally emancipated; or

6. The child dies; or

7. The child's adoption is terminated, either through disruption before finalization or dissolution after finalization; or

8. The adoptive parent(s) request termination of the adoption subsidy agreement; or

9. The child is no longer the legal dependent of the adoptive parent(s).

(b) A child receiving state adoption subsidy payments remains eligible and the adoption subsidy payments continue, unless one of the following circumstances occurs.

1. The child attains age nineteen, the age of majority. If the child is still in high school at age 19, the state adoption subsidy may continue until the child graduates from high school, is no longer enrolled in high school or attains the age of 21, whichever comes first.; or

2. The adoptive parent(s) are no longer legally responsible for the support of the child; or

3. The child is no longer receiving support from the adoptive parent(s); or

4. The child dies; or

5. The adoption is terminated, either through disruption before the finalization or dissolution after finalization; or

6. The adoptive parent(s) request termination of the adoption subsidy agreement; or

7. The child is no longer the legal dependent of the adoptive parent(s).

(13) Appeal and Fair Hearing Any subsidy decision where an application is denied or an adoption subsidy is reduced or terminated, and the placement agency or the adoptive parent(s) deem such action adverse to the adopted child, the applicant or parent recipient shall have the right to request in writing a fair hearing. Such request must be received within 30 days of the date of notice regarding the decision of the Department. The hearing will be in accordance with the Alabama Administrative Procedures Act.

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