

 <p><b>Children's Services Agency</b></p> <p><b>Communication Issuance</b></p> <p><b>20-043*</b>  <b>*Revised 06/11/20</b>  <b>Previous version obsolete.</b></p>	Subject/Title	COVID-19 Response-Title IV-E Determinations and Court Hearings UPDATED
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Distribution	<input checked="" type="checkbox"/> CSA Central Office Managers/Staff <input checked="" type="checkbox"/> MDHHS BSC and County Directors <input checked="" type="checkbox"/> MDHHS Juvenile Justice Managers/Staff <input checked="" type="checkbox"/> MDHHS Child Welfare Managers/Staff <input checked="" type="checkbox"/> Native American Tribes <input checked="" type="checkbox"/> Office of Workforce Development and Training <input checked="" type="checkbox"/> Private Agency Child Welfare Managers/Staff <input checked="" type="checkbox"/> Private Residential Abuse/Neglect Managers/Staff <input checked="" type="checkbox"/> Private Residential Juvenile Justice Managers/Staff <input type="checkbox"/> Other:	

**This version replaces previous versions of CI 20-043.**

Due to the increased health concerns related to Coronavirus Disease 2019 (COVID-19), many courts have or will be changing their procedures regarding hearings and how they are currently managing their dockets. Communications regarding court changes can be found here:

<https://courts.michigan.gov/News-Events/Pages/COVID-19.aspx>. Pursuant to Michigan Supreme Court Administrative Order 2020-2, Permanency Planning Hearings and 24-hour Preliminary and Emergency Removal Hearings following a child being taken into protective custody have been deemed essential functions of the court during this timeframe; as such, courts may continue to hold these hearing types.

Children's Services Agency (CSA) expects variation in court practices by county. The following guidance regarding required court findings for Title IV-E compliance covers all possible scenarios. To establish a child's eligibility for Title IV-E funding, the court must continue to make the *contrary to the welfare & reasonable efforts to prevent the removal* and *reasonable efforts to finalize the permanency plan* determinations on an order. Courts do not need to make these judicial findings at a hearing. In the absence of a court hearing, a jurist may make these findings on a written order only. This is allowable and will not negatively impact the child's Title IV-E eligibility. However, no court transcript will be made in those instances.

The child welfare funding specialist (CWFS) should reach out to the county courts to request updates on a few possible changes:

- Does the court point of contact remain the same?
- Would the court like to be notified of upcoming permanency due dates if it is something the CWFS is in the position to provide?

- Is there an alternate plan for the court to provide the Michigan Department of Health and Human Services (MDHHS) with orders, such as through email?

CWFS should assist the courts in tracking these findings and any issues that may arise when possible:

- Example 1: A permanency finding is due in March 2020. CWFS should be aware of the upcoming due date. The CWFS should contact the court to be sure the court is also aware of the upcoming due date to ensure Title IV-E reimbursability is not lost. The courts have been shuffling their responsibilities as well as MDHHS and would appreciate the reminder.
- Example 2: The order regarding the permanency finding was received, but the court did not add any case specific findings. While normally the court could review the transcript to determine if the finding was made on the record, that may not be an option given the current need for adjournments. The CWFS should reach out to the court as soon as possible so that they are aware of the need and can produce another order with the necessary case specific detail included with the judicial finding in time to prevent losing Title IV-E reimbursability.
- Example 3: The CWFS was recently assigned to new cases but are not yet assigned to the cases in MiSACWIS. Because of this, the CWFS is not receiving the ticklers that a permanency finding is coming due. Federal Compliance Division (FCD) is not asking that all CWFS go through every case to determine when the next finding is due to alert the court. Because many CWFS already track these due dates, we are asking that for those the CWFS know are coming due, a communication is sent to the court to ensure they are also aware of the upcoming deadline.

For additional information, please see the Federal Children's Bureau Information Memorandum (ACYF-CB-IM-0506) issued in 2005 due to Hurricane Katrina and recently recirculated by the feds in light of the COVID-19 pandemic: <https://www.acf.hhs.gov/sites/default/files/cb/im0506.pdf>.

Specifically, page 3 of the memorandum states:

*Judicial determinations* - States also may establish alternative procedures for obtaining judicial determinations regarding contrary to the welfare and reasonable efforts, including reasonable efforts to achieve permanency, as there is no Federal requirement that these determinations be made at a court hearing. These judicial determinations are required to establish a child's eligibility for Title IV-E.

*Federal oversight* - Further, in conducting Child and Family Services Reviews, Title IV-E eligibility reviews and other oversight activities in the future, Administration for Children and Families (ACF) will be cognizant of the extraordinary demands that this natural disaster has placed on many States.

FCD appreciates your continued partnership with the courts. If there are any further questions, please email FCD at [MDHHS-federalcompliance@michigan.gov](mailto:MDHHS-federalcompliance@michigan.gov).