

ELIGIBILITY REQUIREMENTS FOR TITLE IV-E FUNDING

I. Citizenship:

The child must be an U.S. citizen or a qualified alien (US Citizen/Qualified Alien Status FOM 902). If child is not a U.S. citizen or qualified alien, s/he is NOT eligible for Title IV-E. No further (federal funding) determination is necessary (state/county funding still needs to be determined based on legal status).

A qualified alien is a person who is not an U.S. citizen but has been admitted to the U.S. for one of the following reasons:

- Lawfully admitted for permanent residence under the Immigration and Nationality Act (INA); or
- Granted asylum under section 208 of the INA; or
- A refugee who is admitted to the U.S. under section 207 of the INA; or
- Paroled into the U.S. under section 212(d)(5) of the INA for a period of at least 1 year; or
- An alien whose deportation is being withheld under section 241(b)(3) or 243(h) of the INA; or
- Granted conditional entry pursuant to section 203(a)(7) of the INA; or
- A Cuban/Haitian entrant.

Verification of citizenship or qualified alien status is required.

II. Former ADC Program Eligibility:

The child must have been eligible for the former ADC program in the home from which s/he was removed (Former ADC Program Eligibility Requirements, FOM 902-2)

The former ADC program eligibility determination is completed for the month in which the court action that led to the child's removal occurred. A court action is defined as an order that removes the youth from his/her home.

If the child was not living with a 'qualifying' relative at the time of the court action, former ADC program eligibility is determined for the most recent relative's home in which s/he resided. This residence must have occurred within the immediate past six (6) months.

A Deprivation factor must be present:

- Continued absence of one parent from the parental home (examples are separation, divorce, or death).
- If the child was removed from a relative's home, continued absence of the parent(s) from that relative's home.
- Incapacity of a parent.
- Unemployment of a parent.

Eligibility for the Family Independence Program (FIP) is **NOT** used to determine former ADC program eligibility. The former ADC program eligibility requirements are based on the Title IV-A (TANF) State Plan that was in effect on July 16, 1996.

The family must have insufficient income and assets, below the former ADC program needs standard. The family asset limit is \$10,000.

III. Court Jurisdiction:

Court jurisdiction must have been established under the Michigan Juvenile Code. If jurisdiction was established under the Criminal Code, there is no Title IV-E eligibility. (Legal Jurisdiction, FOM 902-2).

IV. Judicial Determination:

In order for a child to be Title IV-E eligible the court order **must contain documentation of the evidence used by the court to make the judicial findings**. Court orders may contain checkboxes for the finding, but the determinations:

- Must be explicit and made on a case by case basis.
- If a worker's testimony is used to support the judicial findings, the court must either list the evidence used within the court order or attach a copy of the transcript to the court order. The entire transcript does not need to be attached to the court order.
- The court order may not reference state law for these determinations.
- The judicial determination of "contrary to the welfare" and "reasonable efforts to prevent removal" must be made for each placement episode. **NOTE:** A placement episode begins when a child moves from an own-home living arrangement (01- own home; 03- legal guardian; 22- out-of state parent) to an out-of-home living arrangement or when a case is opened with the living arrangement noted as out-of home. The placement episode ends when the child is returned home, this includes placing the child in the home of the non-custodial parent, placing with a guardian, or when the case is discharged.

A. Contrary to the Child's Welfare - There must be a judicial determination that continuation in his/her home would be contrary to his/her welfare.

For children removed after **03/27/2000**, the finding must be included in the first court order (including emergency removal orders also) removing the child from his/her home. Verbal orders are not acceptable.

This inclusion cannot be by reference to MCL 722A.1. It must be explicit and case specific.

The child is ineligible for title IV-E funding for this current placement episode if the finding is not made in the first order for each placement episode.

A subsequent order (e.g. a nunc pro tunc order) amending the original order, or an amended order **cannot** be used to establish compliance with this requirement.

Judicial Determinations continued on next page.

B. Reasonable Efforts to Prevent Removal - There must be a judicial determination that reasonable efforts were made to prevent removal from the home. The Family Division of the Circuit Court must make the finding at a court hearing within 60 days of the child's removal from his/her home (for any child removed after 03/27/00). **NOTE: Title IV-E eligibility does NOT begin until this determination is obtained. Once this judicial determination has been obtained (within the 60-day time frame) title IV-E eligibility begins (provided all other eligibility requirements have been met) on the first day of the month the determination was made or at placement, whichever date is the latter.**

The order must be case specific and not merely reference a state law for these determinations.

A child is ineligible for title IV-E funding if there is no judicial determination of reasonable efforts within 60 days of the removal or if the court determines a finding that reasonable efforts were not provided.

C. Reasonable Efforts Not Required - The court can make a finding that not making efforts is reasonable. The judicial determination that reasonable efforts are not required to prevent removal is made when the court determines **that one or more** of the following circumstances exists:

1. A court of competent jurisdiction has determined that the parent has been **convicted** of:
 - Murder of another child of the parent
 - Voluntary manslaughter of another child of the parent
 - Aiding or abetting, attempting conspiring, or soliciting to commit such a murder, voluntary manslaughter
 - Felony assault that results in serious bodily harm to the child or another child of the parent
2. The parental rights of the parent with respect to a sibling have been terminated involuntarily.
3. A court of competent jurisdiction has determined that the parent has subjected the child or a sibling of the child and per Michigan Law the abuse must include one or more of the following aggravated circumstances [MCL 722.638 (1) (a)]:
 - Abandonment of a young child
 - Criminal sexual conduct involving penetration attempted penetration or assault with intent to penetrate
 - Battering, torture, or other severe physical abuse
 - Loss or serious impairment of an organ or limb
 - Life threatening injury
 - Murder or attempted murder

Judicial Determinations continued on next page.

D. Reasonable Efforts to Finalize a Permanency Plan - There must be a judicial determination that reasonable efforts are being made to finalize the permanency plan. This judicial determination is required at least every 12 months from the date of removal and every 12 months thereafter.

The Family Division of the Circuit Court must make the finding for every child under its jurisdiction at least once every 12 months. This includes children whose parents' rights have been terminated and children in adoptive placements if the adoption is not confirmed.

The determination must be made at a court hearing and is to be based upon the permanency plan identified in the USP or court report. Acceptable Permanency Plans are:

- Reunification (return home)
- Adoption
- Legal guardianship
- Placement with a fit and willing relative
- Placement in another planned permanent living arrangement- If it is concluded, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in another planned permanent living arrangement, the worker must document to the court the compelling reason for the alternate plan. Two other acceptable permanency plans within this goal are:
 - 1) Permanent Foster Family Agreement
 - 2) Emancipation by age 19

Lack of this finding or a finding that reasonable efforts were not provided terminates Title IV-E eligibility until a subsequent order is issued stating that reasonable efforts are being provided to finalize the permanency plan. The effective date for reinstatement of title IV-E eligibility is the first day of the month in which the court order containing the judicial finding has been received, by DHS.

V. DHS Responsible for Placement & Care:

The child's placement and care must be the responsibility of the State agency responsible for the Title IV-E Child Welfare Services Program (Legal Jurisdiction, FOM 902-2).

In Michigan, this is the Department of Human Services (DHS).

Court orders do not have to contain the exact words "placement and care", substitute wording such as "care and supervision", "placement and supervision", "committed to DHS under Act 220 (or Act 296)", or "placed in foster care or with a suitable relative" may be used without affecting Title IV-E funding eligibility.

Orders that specify particular placements or dual/co-supervision by DHS and another public or private entity restrict the Agency's responsibility for placement and care decisions. If the court orders dual supervision by DHS and the court, the youth is not IV-E eligible.

The court order cannot order a specific placement for the juvenile. Court orders that provide an alternative such as the phrase, "suitable placement" does not specify placement or type of placement. Court orders that contain wording such as "low secure" or "residential care" do specify placement type since they preclude the use of family foster homes. Court orders may contain a recommendation for placement without affecting Title IV-E eligibility.

If there is a dispute among the parties regarding placement of a child, the court has the authority to make a ruling regarding a child's placement without affecting Title IV-E eligibility (refer to Specification in Court Orders 902-2). If there is no dispute and the court order specifies the out of home placement or the level of restrictiveness (security) of the placement or orders supervision by the Department and any other entity IV-E eligibility does not exist for the child.

VI. Placement:

The child must be placed by the Department in either a licensed foster home, a private, non-profit child caring institution or a public treatment institution of twenty-five (25) beds or less. The only public treatment facilities in Michigan, which have been determined to meet this requirement, are the Department operated Residential Care Centers and Arbor Heights.

If a child who is otherwise Title IV-E eligible, is placed in the home of a relative and that relative's home can be licensed, the relatives are to be offered the option of foster care payments. However, homes of relatives must be licensed as family foster homes to be eligible for a Title IV-E payment.

The definition of a Title IV-E eligible child caring institution does **NOT** include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. Beginning October 1, 2002 any facility that is medium secure or above will no longer be considered Title IV-E eligible.

Title IV-E funding cannot be used if the foster parent with whom the child is placed has a felony conviction for one or more of the following (Eligible Living Arrangement FOM 902-2):

- Spousal Abuse
- Child Abuse/neglect
- Involving violence, rape, sexual assault or homicide but not including other physical assault or battery
- A conviction within the last 5 years for a physical assault, battery or a drug related offense.

Title IV-E funding is also not available if the foster home or child caring institution is on a provisional license (1st - 4th) because of a licensing violation. Original licenses are not included in this definition.

Title IV-E funds **cannot be used** to fund a youth in independent living or supervised independent living.

VII. Continue to meet Former ADC Program Eligibility (FOM 902-2):

The child must continuously meet the former ADC program eligibility requirements. These requirements include: continued deprivation, i.e., the absence of one parent from the home, the absence of both parents from the relative's home, unemployment or incapacity, in the home from which the child was removed. IF a deprivation factor changes, a redetermination must be completed in SWSS).

Insufficient income and property for the CHILD (parent's income and property are not considered at redetermination).

VIII. Age & Education Factors

Former ADC program employment program or education requirements for a child age 16 or older.

For eighteen (18) year olds, full time attendance in an approved high school or equivalent level of a training program **AND** reasonably expected to complete (graduate) before age nineteen (19). Eligibility ends at the end of the month of high school graduation or at age 19 whichever occurs first. Documentation verifying this educational requirement **must be in the case file**. Documentation could be the school report card; copy of diploma or certification from approved training program.