



Office of Children and Family Services

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Local Commissioners Memorandum

Transmittal:	18-OCFS-LCM-04
To:	Local District Commissioners Director of Services Protective Supervisors Preventive Services Supervisors.
Issuing Division/Office:	Division of Administration Division of Child Welfare and Community Services
Date:	February 28, 2018
Subject:	Federal Foster Care Candidacy Requirements
Contact Person(s):	TitleIV-E.CandidacyforFosterCare">ocfs.sm.TitleIV-E.CandidacyforFosterCare
Attachments:	Federal Foster Care Candidacy Determination Form OCFS-4777 (02/2018)

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to address the steps that must be taken to make timely and accurate determinations of candidacy for foster care enabling the state and local departments of social services (LDSSs) to receive federal reimbursement for allowable pre-placement administrative expenses associated with candidates for foster care. A Title IV-E candidate for foster care is a child who is at serious or imminent risk of removal from his or her home and placement into foster care as evidenced by the LDSS pursuing the child's removal from the home or making reasonable efforts to prevent such removal.¹

This release is necessitated by the results of the targeted technical assistance provided by the Administration for Children and Families' (ACF) Children's Bureau (CB) and Office of Grants Management (OGM) to the New York State Office of Children and Family Services (OCFS) during the week of November 13-16, 2017. The purpose of the targeted technical assistance was to understand how OCFS determined and documented the eligibility of candidates for the Title IV-E foster care program; discuss the claiming process used by OCFS to claim the Title IV-E foster care maintenance payments, administrative

¹ Federal Child Welfare Policy Manual (CWPA) 8.1D, Q/A#2.

cost, federal financial participation rates, and supportive documentation; and discuss the Title IV-E claims for training.

II. Background

During the November 2017 targeted technical assistance, a sample of thirty (30) candidate case files were reviewed from the Title IV-E claiming period of April 1, 2017, through June 30, 2017. The sample cases were randomly selected from a universe of pre-foster care placement cases from all LDSSs, except New York City.

Only four (4) of the 30 cases or 13 percent were determined to have satisfied the Title IV-E federal eligibility requirements for claiming pre-placement administrative costs associated with foster care candidates, based on the required documentation either in the case record or through court petitions. The remaining cases in the sample (26 of the 30 cases or 87 percent) reviewed did not have the acceptable documentation to meet the federal Title IV-E foster care candidate requirements for pre-placement administrative costs.

Other Findings of the Targeted Technical Assistance:

In the cases reviewed during the targeted technical assistance week, the following was discovered:

- Incomplete service plan (Family Assessment Service Plan) documentation that describes the behaviors or concerns that place the child at serious or imminent risk of removal from his or her home and placement into foster care and describe the services being offered or provided to prevent placement.
- Case plans without parent/guardian, and caseworker signatures, or documentation as to the efforts made to obtain the parent's/guardian's signature.
- Insufficient risk assessment(s) of all children in the home or the risk assessment did not detail how the child was at serious or imminent risk of placement into foster care.
- No program choices were selected for cases that were considered by the LDSS to be Title IV-E candidates for foster care.
- Case records contained a discussion of the need for services, but no documentation of referrals for such services.

These findings resulted in ACF determining that New York State can only claim 13 percent of the total dollar amount for rest-of-state² LDSS Title IV-E pre-placement administrative costs for candidate for foster care cases. This total percentage of candidate for foster care cases, which excludes New York City, represents the extrapolation of the case review findings. The Title IV-E candidate cost claims representing 13 percent of the amount identified as Title IV-E allocable through the state's cost allocation plan will be allowed for two quarters, October 1, 2017 – December 31, 2017, and January 1, 2018 – March 31,

² This penalty is not applied to New York City's federal Title IV-E reimbursement for allowable administrative expenses associated with foster care candidates for the periods indicated.

2018. This result calls for renewed emphasis on caseworker training and case documentation of candidacy cases.

III. Program Implications

Another finding of the November 2017 targeted technical assistance was a lack of common understanding at the LDSS level of the subject of candidates for foster care, of the documentation requirements and how candidates for foster care relate to recipients of mandated preventive services.

1. Who is a candidate for foster care?

A candidate for foster care is a child who is at serious or imminent risk of removal from his or her home and placement into foster care, as evidenced by the LDSS pursuing the child's removal from the home or making reasonable efforts to prevent such removal.³

2. What benefit is there to New York State or a LDSS when a child's Title IV-E foster care candidacy is determined adequately and in a timely manner?

Federal Title IV-E financial participation for administrative costs may be claimed in cases where a child is determined and adequately documented as a candidate for foster care regardless of whether the child is placed in foster care and becomes a recipient of Title IV-E foster care benefits. To receive Title IV-E administrative reimbursement for candidates for foster care, an individual, child-specific documented determination must be made.

3. What are allowable administrative costs for candidates for foster care?

Allowable administrative expenses associated with foster care candidacy include pre-placement administrative activities associated with plan development, judicial determinations/court participation, and activities related to the referral process.⁴

4. What are the acceptable methods of documenting that a child is a candidate for foster care benefits?

The federally acceptable methods are

- a. a defined case plan/case record which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child; or
- b. an eligibility determination form that has been completed to evaluate the child's eligibility under Title IV-E; or
- c. evidence of court proceedings in relation to the removal of the child from the child's home, in the form of a petition to the court, a court order or a transcript of the court's proceedings.⁵

³ CWPA 8.1D, Q/A#2.

⁴ 45 CFR 1356.60(c). CWPA 8.1B, Q/A#10 & 8.1D, Q/A#8. Department Appeals Board Decision No 844.

⁵ CWPA 8.1D, Q/A#2.

5. Must Title IV-E foster care candidacy be periodically reassessed?

Yes. To continue to claim Title IV-E for pre-placement administrative costs associated with candidates for foster care, a new determination must be conducted every six months documenting the justification for retaining the child in candidacy status for longer than six months.⁶

6. Does a determination of eligibility for mandated or non-mandated preventive services satisfy the standards for a candidate for foster care?

No. A determination of eligibility for mandated or non-mandated preventive services in accordance with New York standards, in and of itself, **does not** satisfy the federal Title IV-E candidacy requirements.

A. REQUIRED CANDIDACY DETERMINATION AS DOCUMENTED IN THE CHILD'S CASE PLAN

To satisfy federal candidate for foster care requirements based on the child's case plan/case record, the child's case record must include

- a statement that the child is in **serious** or **imminent** risk of placement into foster care and a description of the circumstances in the home that place the child at imminent or serious risk of removal from the home;
- a description of services offered or provided to the parent/guardian to prevent removal;
- an indication that foster care will be the result if the services described in the plan are not offered or provided; and
- evidence of participation by the child's parent(s) or guardian(s) in the development of the Family Assessment and Service Plan (FASP) as documented by the parent's or guardian's signature on the child's FASP or by documentation in the case record of the efforts made by the LDSS or the voluntary authorized agency to engage the parent in participation in the development of such FASP, including, where applicable, documentation of the refusal or inability of the parent or guardian to participate.⁷

A child also cannot be considered a candidate for foster care when the LDSS has no formal involvement with the child or simply because he or she has been described as being "at risk" due to circumstances such as social/interpersonal problems or a dysfunctional home environment; and not solely because the LDSS is involved with the child and his or her family. Individualized determinations that a child is at serious or imminent risk of removal must be completed. Such determinations must be made and documented on a case by case basis.

⁶ CWPA 8.1D Q&A #9.

⁷ CWPA 8.1D, Q/A #8.

Not only must the case plan/case record clearly indicate that, absent effective preventive services, foster care is the planned arrangement for the child; but the case plan/case record must document that preventive services have been offered or provided to the child and/or family. While it is noteworthy that discussions based on the need for services are regularly held, it is imperative that the conversations are followed up with referrals, particularly when pertaining to mandated preventive services.

B. FOSTER CARE CANDIDACY DETERMINATION BASED ON COURT PROCEEDING

To satisfy federal candidate for foster care requirements based on evidence of a court proceeding, the child's case record must include

- a signed and dated petition filed in the Family Court under Article 3, 7, 10 or 10-C of the Family Court Act or section 358-a of the Social Services Law; and
- a description of the services offered or provided to the parent/guardian to prevent removal.

C. SIX MONTH RE-DETERMINATION FOR FOSTER CARE CANDIDACY

After a child has been initially determined to be a candidate for foster care, justification for the child to continue to be considered a candidate for foster care must be re-determined and documented every six months thereafter for Title IV-E reimbursement for administrative costs to continue.

Where candidacy is based on documentation in the child's case plan, the re-determination must include the same findings and documentation as stated in section A above.

Where candidacy is based on court proceedings, the re-determination must include documentation that the child remains in imminent or serious risk of placement into foster care but for the provision of preventive services, along with the services offered or provided to address such risk.

Statewide Corrective Action:

The federal government is requiring New York State to implement a statewide corrective action plan, which must include New York City, in order for the state and LDSSs to continue to receive Title IV-E reimbursement for administrative costs associated with candidates for foster care after March 31, 2018. This LCM sets forth the steps that LDSSs must take regarding the determination and documentation for candidates for foster care. Those steps are:

- **At initial determination of candidacy for foster care, the LDSS caseworker *must* complete the *Federal Foster Care Candidacy Determination Form (OCFS-4777)* for each individual child who is being considered as a candidate for foster care. The OCFS-4777, along with the documentation that supports the finding that the child is a candidate for foster care as referenced above, *must* be stored in the child's case record.**

- **So long as the child is being treated and claimed as a candidate for foster care, every six months the LDSS caseworker *must* complete a six-month re-determination that the child continues to be a candidate for foster care using the *Federal Foster Care Candidacy Determination Form (OCFS-4777)*. This *must* be stored in the child's case record/case file along with the appropriate supporting documentation and the prior completed determination forms.**

The procedures set forth in this release regarding the initial determination of a child as a candidate for foster care and the re-determination take effect immediately with the issuance of the release.

Regarding the timing of such determinations, for the initial determination, this would apply to all preventive and protective services cases opened on after the date of this release. As for cases opened as preventive or protective services cases prior to the issuance of this release, the initial determination of a candidate for foster care must be made at the point of the LDSS re-determination of preventive or protective services eligibility. The re-determination of foster care candidacy must then be made every six months thereafter where the child is considered and claimed as a candidate for foster care.

Claiming for the child as a candidate for foster care must cease should the child be placed into foster care or where the child is no longer in serious or imminent risk of placement into foster care.

OCFS will continue to inform LDSSs of any subsequent guidance received from the federal government on this subject.

IV. System Implications

The *Activities* window in CONNECTIONS was recently updated to include requirements to document information regarding candidates for foster care. Activity codes were added to the *Activities* window regarding Initial Candidacy Determination (S400); Six-Month Candidacy Redetermination (S410); and Candidacy Ended (S420). These changes were necessary to secure federal and state reimbursement for allowable pre-placement administrative expenses associated with candidates for foster care.

Timely and accurate data entry is not only good casework practice, but is essential for a LDSS to receive the maximum allowable federal and state reimbursement, related to candidates for foster care, for which the LDSS is eligible. Failure to record activities correctly may adversely affect reimbursement that LDSSs may receive for candidates for foster care expenditures.

Listed below is a brief overview of the changes that affect the child-specific determination for candidates for foster care process and what information must be recorded for each of the new activity codes:

- **Initial Candidacy Determination (Activity Code S400)**
Please note that these activity codes do not contain hard edits; therefore, for each Modifier you must carefully make your selection based on the guidance below:
 - Child determined to be a candidate for foster care:

- “Event Date” - Enter the date that reflects when the child-specific determination for foster care candidacy was completed. This will start the date of eligibility for allowable pre-placement administrative expenses associated with candidates for foster care.
- Under Modifier A: “Status” you must select “Candidate.”
- Under Modifier B: “Based On” you must select which method of documentation was used that led to a child-specific determination for foster care candidacy:
 - Case Record (See Section III. A. for criteria)
 - Court Petition/Order (See Section III. B. for criteria)
- Child determined to **NOT** be a candidate for foster care:
 - “Event Date” - Enter the date that reflects when the child-specific determination for foster care candidacy was completed.
 - Under Modifier A: “Status” you must select “Not a Candidate.”
 - Under Modifier B: “Based On” you must select “NA.”

- **Six-Month Candidacy Re-Determination** (Activity Code S410)

After a child has been initially determined to be a candidate for foster care, justification for the child to continue to be considered a candidate for foster care must be re-determined and documented every six months thereafter for Title IV-E reimbursement for administrative costs for candidates for foster care to continue.

Please note that these activity codes do not contain hard edits; therefore, for each Modifier you must carefully make your selection based on the guidance below:

- Child determined to continue to be a candidate for foster care:
 - “Event Date” - Enter the date that reflects when the child-specific redetermination for foster care candidacy was completed. This will continue the eligibility for allowable pre-placement administrative expenses associated with candidates for foster care.
 - Under Modifier A: “Status” you must select “Candidate.”
 - Under Modifier B: “Based On” you must select which method of documentation was used that led to a child-specific redetermination for foster care candidacy:
 - Case Record (See Section III. A. for criteria)
 - Court Petition/Order (See Section III. B. for criteria)
- Child determined to **NO LONGER** be a candidate for foster care:
 - “Event Date” - Enter the date that reflects when the child-specific redetermination for foster care candidacy was completed.
 - Under Modifier A: “Status” you must select “Not a Candidate.”
 - Under Modifier B: “Based On” you must select “NA.”
- **Candidacy Ended** (Activity Code S420)

Should it be determined at any point while the case is open that such child is no longer a candidate for foster care, the date of such determination needs to be recorded in the “Event Date.”

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