

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources

Rule No. 660-5-22-.06

Rule Title: Subsidized Adoption

New  Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? Yes moderate degree

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? Yes

Are all facets of the rule making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of § 41-22-23, ALA.CODE 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, ALA.CODE 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service:

Signature of certifying officer:

Date: 10/2/15 *Danny G. Buckner*

DATE FILED  
(STAMP)

Alabama Department of Human Resource  
Adult Protective Services

**NOTICE OF INTENDED ACTION**

RULE NO. & TITLE: 660-5-22-.06 Subsidized Adoption

INTENDED ACTION: To repeal and make new 660-5-22-.06

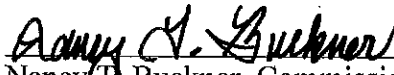
SUBSTANCE OF PROPOSED ACTION: Federal regulations have changed and Alabama statute on adoption subsidy had changed necessitating a revision to Departmental policy.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views, or arguments respecting the proposed amendment by mail or in person through the close of business on December 4, 2015. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330, or set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 4, 2015

CONTACT PERSON AT AGENCY:

Ms. Gail M. Grobe, APA Secretary  
State Department of Human Resources  
Gordon Persons Building  
50 Ripley Street, Room 2122  
Montgomery, Alabama 36130-4000

  
\_\_\_\_\_  
Nancy A. Buckner, Commissioner,  
Department of Human Resources

ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))

Control No. 660 Department or Agency Human Resources

Rule No: 660-5-22-.06

Rule Title: Adoption Subsidy

New  Amend  Repeal  Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

**The Department has expanded the Adoption Subsidy program to include sibling groups of two or more and to include children age 5 and older as meeting the special needs requirements. This action is expected to allow for the adoption of those children in these two groups who would otherwise be ineligible for adoption subsidy.**

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

**The rule change will allow the Department to place more children for adoption and decrease the number of children who remain in long term foster care. Adoption of children, while providing permanency for Alabama's children, is the most cost effective and efficient means of providing permanent homes for children and decreasing the costs of foster care placements. Increasing adoptions ultimately decreases the costs for the Department of Human Resources and the Juvenile Courts by decreasing the number of children being served by the two entities.**

3. EFFECT OF THIS RULE ON COMPETITION:

**There is no competition provided for in the provision of Adoption Subsidy Payments for Alabama's children. State statute provides that the Department of Human Resources is the sole provider of this service.**

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

**This rule is to be implemented state wide. The cost of living and doing business in the State is not impacted by this rule.**

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

**There is no impact on employment in the State by the implementation of this rule.**

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

**The costs for implementing this rule is estimated at \$1,424,000 the first year and is anticipated to remain at that level in future years. The source of revenue for this will come from savings in the foster care maintenance pay**

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

**The short term economic impact is on the Department's adoption subsidy payroll. However, that is off set by a decreased foster care payroll. The long term economic impact arrives when children who have experienced permanent homes are able to enter adulthood with the expectation of being productive adults and enhancing our society.**

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

**Implementation of this rule should increase the number of children being adopted in the State. The quality of life that adoption has on our society is an intangible benefit. Research shows that the burden on our society of children languishing in foster care far outweighs any current financial expense of providing adoption subsidy payments up front and before children languishing in foster care enter adulthood with little or no expectation of becoming productive adults.**

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

**This rule does not impact the environment or public health of the State.**

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**There is no known or expected detrimental effect on the environment or public health of the State if this rule is not implemented. However, children who need permanent homes in the State will be negatively impacted if the rule is not implemented.**

**\*\*Additional pages may be used if needed.**

**ALABAMA DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES DIVISION  
ADMINISTRATIVE CODE**

**CHAPTER 660-5-22  
ADOPTION**

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**660-5-22-.06 Subsidized Adoption**

~~(1) Subsidies make it possible for children in special circumstances to be adopted. Their purpose is to make possible through public financial subsidy the most appropriate adoption of each child certified by the State Department of Human Resources as requiring a subsidy to assure adoption. The Alabama Subsidized Adoption Act provides that the State Department of Human Resources shall establish and administer an ongoing program of subsidized adoption and shall promulgate regulations consistent with the Act. The State Department of Human Resources will provide two types of adoption subsidy:~~

~~(a) Federal Adoption Assistance (IV-E) which provides a monthly benefit, eligibility for Medicaid benefits and Title XX services, and payment for nonrecurring adoption expenses;~~

~~(b) State Adoption Assistance which provides only a monthly benefit. Medicaid may be available for certain children receiving state adoption subsidy who also meet the criteria establishing the need for medical or rehabilitative care.~~

~~(2) Requirements for a Subsidy. (Both State and Federal Assistance)~~

~~(a) The child must be certified by the State Department of Human Resources, Division of Family and Children's Services, as requiring a subsidy to assure adoption. The child's service record and the record of the prospective adoptive parents must be sent to the Division of Family and Children's Services for review. Each of the following three requirements for the definition of a special needs child must be met:~~

~~1. The State must have determined that the child cannot or should not be returned to the home of his parents and the child must be in the permanent custody of the State Department of Human Resources. A child in the custody of a licensed child placing agency may be eligible for a state adoption subsidy;~~

~~2. Efforts to locate an adoptive resource for the child without a subsidy must be made unless it is determined that it is in the child's best interest to remain in a home which could not be an adoptive resource without subsidy. (Except in the case of adoption by foster parents, efforts to locate adoptive parents who can accept the child with a subsidy must be made.) For example, the child must be registered with exchanges, specialized adoption agencies, and recruitment efforts must be made to locate adoptive homes which do not require a subsidy; and~~

~~3. The State Department of Human Resources must determine that the child is a special needs child and is in special circumstances which make it unlikely for him to be adopted by reason of one or more of the following conditions:~~

~~(i) Physical or mental disability. For example, the child is suffering from some disease or illness or has been born with a physical or mental defect which make ordinary or non-subsidized adoption unavailable for him;~~

~~(ii) Emotional disturbance;~~

~~(iii) Recognized high risk of physical or mental disease. For example, the child may have suffered some injury at birth which may manifest itself later in some form of disability or it may be known at placement that the child is a carrier of some disease which has not yet appeared, but the risk for the child is present;~~

~~(iv) Children eight (8) years and older;~~

~~(v) Sibling groups of three or more children. (It may be sound casework practice to place a family group together and the proposed adoptive family cannot financially afford the total responsibility of a family group);~~

~~(vi) A black child or child of black heritage, two (2) years old or older;~~

~~(vii) Potential danger to the child in severance of his emotional ties with the prospective adoptive parents. When significant emotional ties have been established between a child and the foster parents, the Division of Family and Children's Services will consider a subsidy upon the recommendation of the County Department or licensed child placing agency if it is determined that the foster parents cannot financially support the child without a subsidy. When foster parents are the prospective adoptive parents, certification of the child's eligibility for a subsidy shall be conditioned upon his adoption by those prospective adoptive parents under applicable Alabama adoption policies, procedures, and statutes;~~

~~(viii) The child's record and the home study must be submitted for review, the record must substantiate a significant emotional bond between foster parents and the child, and there must be evidence that the foster parents are suitable adoptive parents;~~

~~(ix) If the child is in the permanent custody of a voluntary licensed child placing agency, that agency shall present to the State Department of Human Resource (1) evidence to support the existence of potential danger to the child in severing his emotional ties with his foster parents who are the prospective adoptive parents, or (2) evidence of inability to place the child for adoption due to any of the other conditions specified in paragraph 3. a. through g. above. In the latter case, the licensed child placing agency shall present evidence that reasonable efforts have been made to place the child without subsidy, such as recruitment of potential parents, use of adoption resource exchanges, and referral to appropriate specialized adoption agencies; or~~

~~(x) Any combination of these conditions.~~

~~(3) Subsidy Agreement.~~

~~(a) When parents are found and approved and the child has been certified as eligible for a subsidy under the state program or the Federal Adoption Assistance, the Division of Family and Children's Services will prepare a written agreement between the State Department of Human Resources and the adopting family. The agreement will set out the terms and conditions of the subsidy. The written agreement must be entered into by the State Department of Human Resources and the adopting family before the final decree of adoption is issued. Adoption subsidies in individual cases may begin at any time after the adoption placement before the final decree of adoption is issued. Payments may not begin until the Adoption Assistance Agreement is complete.~~

~~(b) In instances of foster parents' adoption, the County Department will discuss the agreement with the adoptive parents. In cases of placements by the Office of Adoption, the placement worker will discuss the subsidy and complete the agreement forms. In placements from licensed child placing agencies, the agency worker will discuss the agreement with the prospective adoptive parents. The adoptive parents will retain a copy of the agreement.~~

~~(c) When subsidies are for more than one year, the adoptive parents shall present an annual sworn certification that the adopted child remains under their care and that the condition(s) that cause the child to be certified continue(s) to exist. If the child receives a subsidy for medical reasons, a current evaluation by the attending physician must be presented to the Division of Family and Children's Services. If the child certified for subsidy was in the permanent custody of a licensed child placing agency, that agency shall furnish the State Department of Human Resources information to establish that condition(s) that cause the child to be certified continue(s) to exist. This shall be submitted annually or upon request by the State Department of Human Resources. Failure on the part of adoptive parents to complete recertification forms will result in termination of payments.~~



~~(d) The subsidy agreement may be modified only with the approval of the Division of Family and Children's Services of the State Department of Human Resources. The adoptive parents may request termination of the subsidy agreement at any time.~~

~~(e) The subsidy agreement shall be continued in accordance with its terms but only as long as the adopted child is the legal dependent of the adoptive parents and the child's condition continues; except that in the absence of other appropriate resources provided by law and in accordance with Alabama regulations, the state payment for subsidy may be continued after the adopted child reaches majority, provided he is in school or in training in a program, the purpose of which is to aid him toward becoming self-supporting. Written notice will be sent the adoptive parents when payments are terminated.~~

~~(4) Residence.~~

~~In the event the adoptive parents move from the State of Alabama after the child is certified for state subsidy or an Adoption Assistance payment, the child shall remain eligible for the subsidy, if the child's needs remain the same and provided the child is a resident of Alabama when eligibility for subsidy is certified. In the event the child is placed with adoptive parents who live in another state, subsidy may be granted. For agreements entered into on or after October 1, 1990, if a needed service(s) specified in the agreement is not available in the new state of residence, the state making the original adoption assistance payment remains financially responsible for providing the specified service(s).~~

~~(5) Requirements for Federal Adoption Assistance.~~

~~(a) The child must be receiving IV-E Foster Care Maintenance Payments (FCMP) or be receiving Supplemental Security Income (SSI) benefits or would have been eligible to receive FCMP if an application had been made. Verification of the child's receipt of FCMP or SSI will be requested from the County Department having responsibility of the child.~~

~~(b) The child must be determined by the State Department of Human Resources as being a child with special needs.~~

~~(c) The amount of the Adoption Assistance payments under the Federal Adoption Assistance program will be determined through agreement with the adoptive parents and the State Department of Human Resources, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted and may be readjusted periodically with the concurrence of the adopting parents. In no case may the amount of the Adoption Assistance payment exceed the foster care payment which would have been paid during the period, including difficulty of care payments for which the child would have been eligible, if the child with respect to whom the Adoption Assistance payment is made had been in a foster family home.~~

~~(d) No payment may be made to parents with respect to any child who has attained the age of eighteen years or where the State Department of Human Resources determines the child has a mental or physical handicap which warrants the continuation of assistance until the child reaches 21 years of age. No payment may be made to parents with respect to any child, if the~~

## Human Resources

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~~State Department of Human Resources determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents.~~

~~(e) Parents who receive Adoption Assistance payments shall keep the State Department of Human Resources informed of circumstances which would make them ineligible for such assistance payments or eligible for assistance payments in a different amount.~~

~~(f) Parents shall complete an Adoption Assistance Agreement when payments are initiated and a recertification agreement each year thereafter so long as assistance payments are continued.~~

~~(g) Adoption Assistance payments may begin as soon as the Adoption Assistance Agreement is signed and the child is placed in the adoptive home. The Adoption Assistance Agreement shall be signed and in effect prior to the final decree of adoption.~~

~~(h) For children receiving Federal Adoption Assistance, Title XX services and Medicaid (Title XIX) will be granted from the state in which the child actually resides, rather than in the state from which they were originally placed.~~

#### ~~(6) Non-Recurring Adoption Expenses:~~

~~The Department is authorized to provide reimbursement for non-recurring adoption expenses incurred by adoptive parents in the adoption of a child with special needs.~~

##### ~~(a) Eligibility.~~

~~1. In order to be eligible for reimbursement of non-recurring expenses, the following criteria must be met:~~

~~(i) The State Department of Human Resources must determine that the child meets the definition of a special needs child;~~

~~(ii) An Adoption Assistance Agreement must be signed and approved by the State Department of Human Resources prior to finalization of the adoption with two exceptions:~~

~~(I) Cases in which the final decree of adoption was entered into on or after January 1, 1987, and until June 14, 1989; or~~

~~(II) Cases in which the final decree was entered into before January 1, 1987, but non-recurring expenses were paid after January 1, 1987; and~~

~~(iii) The child must have been placed for adoption in accordance with all applicable laws.~~

~~2. Families adopting children through licensed child placing agencies, independent adoptions, and inter-country adoptions may be eligible for reimbursement of non-recurring expenses provided the placement is not in violation of the law and provided all criteria in this section are met, including the Department's definition of a special needs child.~~

~~3. There is no means test for adoptive parents in determining eligibility for non-recurring expense reimbursement. However, adoptive parents may not be reimbursed for expenses for which they have otherwise been reimbursed.~~

~~4. The child's eligibility for Title IV E adoption assistance is not a requirement for reimbursement of non-recurring expenses.~~

~~(b) Benefits~~

~~1. Only the one-time expenses of adoption for which the adoptive parents are responsible for payment are considered to be non-recurring expenses. These include the reasonable and necessary adoption expenses which are 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.~~

~~2. These expenses include:~~

~~(i) Attorney fees;~~

~~(ii) Court costs;~~

~~(iii) Criminal records clearance;~~

~~(iv) The adoption home study performed by a licensed child-placing agency;~~

~~(v) Medical and psychological evaluations required by the Department or the child-placing agency;~~

~~(vi) Supervision of the placement prior to finalization;~~

~~(vii) Transportation costs for placement and pre-placement; and~~

~~(viii) The reasonable costs of lodging and food for the child and/or adoptive parents when necessary to complete the adoption process.~~

~~3. The maximum amount of reimbursement will not exceed \$1,000.00 per child.~~

~~4. All claims for reimbursement must be made within two years of the date of the final decree of adoption. For families adopting a special-needs child between January 1, 1987, and June 14, 1989, an Adoption Assistance Agreement must be signed and all claims filed prior to December 14, 1990, in order to claim reimbursement.~~

~~5. In interstate placements, the state which enters into the agreement for ongoing state or federal adoption assistance will also be responsible for reimbursement of non-recurring expenses. If there is no ongoing subsidy the state where the adoption is to be finalized will be responsible for reimbursement.~~

~~(7) Type of Subsidy Under State Subsidized Adoption Act.~~

- (a) ~~Special Needs Subsidy is limited to the time span of the necessary service. It may involve a one-time payment or several payments in the case of a child with a medical condition which will require treatment or surgery after placement or after the adoption decree. Investigation must be made of the adopting family's medical insurance and of other public and voluntary community services to determine whether the costs of the treatment and related costs can be covered. Examples of Special Needs Subsidy are: cost of surgery for a pre-existing condition; payment of speech therapy, or other special needs related to the care and treatment of the child; or legal fees to an attorney handling the legal procedure of adoption.~~
- (b) ~~Time Limited Subsidy is a payment for a specified time span after adoptive placement or after the legal completion of the adoption. It is designed to help with the expenses of integrating the child or children into the family or to provide needed funds for a specified length of time. An example is providing assistance for a limited time in meeting the initial expense of a sibling group for school or clothing or other special expense to make the placement possible.~~
- (c) ~~Long Term Subsidy is designed for children who cannot be adopted unless their long-term financial needs are met by subsidy. The periodic payments may continue until the child reaches majority or, in particular cases, beyond the child's majority, provided the child is in school or in training in a program, the purpose of which is to aid him toward becoming self-supporting. Approval for continuance after majority must be given by the Division of Family and Children's Services.~~

~~(8) Amount of Subsidy. Neither the Long Term Subsidy nor the Time Limited Subsidy may exceed the rate established by the State Department of Human Resources, including difficulty of care payments for which the child would have been eligible. Whenever the foster care rates are changed, the money payment subsidies may be adjusted. The Special Needs Subsidies will be in accordance with the reasonable fees customary in the community where such services are rendered.~~

~~(9) Financial Procedure. The Office of Adoption shall be responsible for preparation of the subsidy requisition to be submitted to the Fiscal Administration Division monthly.~~

~~(10) Review. Any subsidy decision by the State Department of Human Resources which the placement agency or the adoptive parents deems adverse to the child is reviewable by the State Department of Human Resources. The placement agency or the adoptive parents may request a review by writing the Division of Family and Children's Services.~~

~~(11) Medicaid Eligibility for Children Receiving State Adoption Subsidies. Children placed for adoption after October 1, 1991, for whom there is in effect a signed approved state adoption subsidy agreement may be determined eligible for Medicaid under the following circumstances:~~

- (a) ~~Prior to execution of the subsidy agreement, the child must have been eligible for Medicaid under the state's approved Medicaid plan or it must be determined that the child would have been eligible for Medicaid if the standards and methodologies of the Title IV-E foster care program were applied rather than the AFDC standards and methodologies; and~~

~~(b) The Office of Adoption must determine that the child cannot be placed for adoption without medical assistance because of the child's special needs for medical or rehabilitative care including, but not limited to the following:~~

- ~~1. The child's need for regular prescription medication;~~
- ~~2. Pre-existing conditions at the time of placement, such as chronic health problems, dental, visual, or hearing problems;~~
- ~~3. Emotional or behavioral disorders requiring counseling or other treatment;~~
- ~~4. The need for speech, physical or other rehabilitative therapy;~~
- ~~5. The need for day treatment or special education services;~~
- ~~6. The need for nursing care or other specialized medical or rehabilitative services; or~~
- ~~7. High risk background of the child, such as patterns of mental illness or retardation, history of numerous separations or moves, or history of serious abuse or neglect, which would increase the likelihood of serious medical, emotional or adaptive problems in the child's future.~~

~~(e) Medicaid eligibility for a child will Medicaid eligibility for a child will continue up to age 19 as long as the state adoption subsidy agreement is in effect. The Office of Adoption may approve an extension of Medicaid eligibility beyond the age of 19 but not beyond the child's twenty-first birthday.~~

(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 than 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 be 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:

- (a) A written request for payment submitted no later than twelve months from the date of the Final Decree;
- (b) 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.
- (c) A current Request for Taxpayer identification Number and Certification (W-9); and
- (d) 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 than 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 homes. 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 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 interview 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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**Statutory Authority:** Code of Alabama 1975, Title 26, Chapter 10, Article 2, Section 26-10-20 through 26-10-30, Alabama Subsidized Adoption Act; Code of Federal Regulations, 42 U. S. C. 673, 675; Social Security Act Section 473 and 475(3); Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

**History:** Effective October 11, 1983. Emergency amendment effective March 1, 1989. Permanent amendment effective June 9, 1989. Succeedent emergency amendment effective January 23, 1991. Succeedent permanent amendment effective May 9, 1991. Succeedent emergency amendment effective April 3, 1992. Succeedent permanent amendment effective July 9, 1992. Succeedent emergency amendment effective September 30, 1993. Amended: Filed December 6, 1993. Succeedent permanent amendment effective January 10, 1994. Emergency Amendment Filed October 2, 2015, effective October 2, 2015; Permanent Amended Rule Filed December 7, 2015 ; Effective January 11, 2016.