

COMMONWEALTH OF PENNSYLVANIA  
Department of Public Welfare

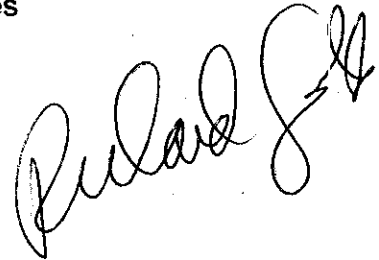
FEB 24 2008

SPECIAL TRANSMITTAL

**SUBJECT:** Fostering Connections to Success and Increasing Adoptions Act of 2008

**TO:** County Children and Youth Social Service Agencies  
Private Children and Youth Social Service Agencies  
County Children and Youth Fiscal Officers

**FROM:** Richard J. Gold  
Deputy Secretary for Children, Youth and Families



**PURPOSE:**

The purpose of this transmittal is to inform public and private children and youth agencies about the enactment of recent Federal legislation and the impact, on agency operations and practice, of those mandated portions of this legislation that are immediately effective.

**BACKGROUND:**

On October 7, 2008, President George W. Bush signed the Fostering Connections to Success and Increasing Adoptions Act of 2008, (Public Law 110-351), into law. While this transmittal concerns only those immediately effective mandates that do not require Pennsylvania legislative change, the new law makes several other significant amendments to the Social Security Act. Some of the delayed changes will be state-choice options for each state's Title IV-E plan, such as expanding the possibility of Title IV-E maintenance payments for youth up to age 21, and implementation of a relative guardianship program. The law also extends and expands adoption incentives to fiscal year 2013, and gradually de-links adoption assistance from Aid to Families with Dependent Children (AFDC) eligibility. Agencies may access the full provisions of the law by linking to the Program Instruction issued by the Administration for Children and Families (ACF) at: [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/pi/2008/pi0805.htm](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2008/pi0805.htm).

**DISCUSSION:**

Many requirements of this new law became effective upon enactment, on October 7, 2008. Delayed implementation was possible only if State legislation was necessary for compliance. After careful review by the Office of Children, Youth and Families (OCYF), it was determined that no legislation would be needed. Therefore, immediate implementation of the mandated portions of the law is necessary.

OCYF will continue conducting analyses of the fiscal and programmatic implications of the state plan options created by the new law to determine which, if any, options Pennsylvania will incorporate into future Title IV-E State Plans. To be clear, these Title IV-E reimbursable options are not available for counties to exercise on a basis independent of the State-wide plan.

Also, to be determined is which departmental policy clarifications and bulletins may need to be updated or developed to fully implement all relevant requirements of the new law. To that end, OCYF will be consulting with the Pennsylvania Department of Education (PDE), other DPW program offices, the Educational and Juvenile Law Centers (ELC and JLC) to insure the integrity of further guidance. OCYF has also submitted questions to the Administration for Children and Families (ACF) for clarification on particular issues. Additional guidance and policy updates should be anticipated.

In the meantime, it is necessary for both county children and youth and provider agencies to be aware of, and to take implementation steps towards, the immediate practice requirements. Some of these have been ingrained in county and State practice prior to the passage of this legislation, and will not be new to agencies. For those that are new, and required Pennsylvania's compliance on the effective date, no licensing actions will be taken against agencies for failure to comply between the effective date of October 7, 2008, and 60 days from the date of this special transmittal. Unless specifically noted, agencies can be cited for non-compliance for any portions of these steps that are currently required practice.

Following are the plan requirements under Title IV-B and Title IV-E of the Social Security Act as amended by the new federal legislation, and effective as of October 7, 2008, unless otherwise noted, as well as OCYF interim instruction for practice implementation:

#### Notification of Adult Relatives

- *Requirement* – Due diligence must be exercised to identify all adult relatives within 30 days of a child's placement, notify them that the child has been or is being removed, and explain to them their options to participate in the care and placement of the child. Identification of relatives as prospective kinship resources is not a new policy, and agencies will continue to be held accountable for the identification of, and search for, appropriate relative resources. Through OCYF Bulletin #00-03-03, Kinship Care Policy, certain notifications were already required, but notification requirements have been expanded. The 30 day time frame for notification requirement *is* a new practice for agencies, and agencies will not be cited for failure to comply before the 60<sup>th</sup> day following the effective date of this transmittal.
- *Reference* - The definition of 'relative' in OCYF Bulletin #3140-04-05/ 3490-04-01, Child Placements with Emergency Caregivers: "someone related within the first, second or third degree to the parent or stepparent of the child who may be related

through blood or marriage and who is at least 21 years of age". (Following clarification from ACF, this definition may be expanded to become consistent with the definition related to removal home in The Code of Federal Regulations which is as follows: A specified relative is defined as any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes great-great-great grandparents and first cousins once removed (children of first cousins)). The 'Emergency Caregiver' bulletin also establishes the policy to give first consideration for placement to relatives of a child, and to document why such placement was not possible, if it were not. Also, reference the procedure for approving kin for resource care in OCYF Bulletin #00-03-03, Kinship Care Policy, as well as OCYF Bulletin #3130-03-01/3140-03-07, Permanent Legal Custodian Policy. The new federal requirement expands these existing policies by requiring greater accountability for agency efforts through the prescribed 30 day notification process.

- *Instruction* - At a minimum, 'due diligence' should involve interviews with all household members, including school-age children, preferably prior to any placement, to identify, by order of the family's preference, any relatives with whom the child has an ongoing relationship, any relatives in the child's community and other relatives outside of the child's community. Names and contact information should be collected. If the family is unable to provide contact information, the agency should use other family finding tools, including the Federal Parent Locator Service, now available as a result of this legislation.

Attachment A, "Summary to Kinship Caregivers", of OCYF Bulletin #00-03-03, has been revised to serve as a letter of notice that includes information about home approval opportunities and requirements. This written notification to identified relatives must occur within 30 days of the child's removal from the home, to inform them of their opportunity to become a resource for the child. Registered mail is suggested. Documentation of interview results and contact efforts must be in the family and child record.

- *Note* - The requirement to identify and notify adult *relatives* does not obviate the existing OCYF policy requirement, as stated in OCYF Bulletin #00-03-03, to also identify adults who qualify as 'kin': God parents, members of Tribe or clan or someone with a "significant positive relationship with the child or the child's family". Agencies should make every attempt to identify the most appropriate kin or relative who can best meet the child's need for stability and family connection.

#### Licensing Waivers for Relatives

- *Provision* - The new law explicitly permits case-by-case waiver request review of non-safety licensing standards for relative resource homes being studied for approval to provide foster care for related children. Data on the use of waivers to approve relative homes will be gathered for a report to be submitted by Health and Human Services within two years of the effective date of the legislation. This

provision will not require a new practice or policy for agencies, since agencies currently have the option to request such waivers for any prospective resource home.

- *Reference* – Per §3700.5, (relating to waivers). As required, an agency must present information to the effect that the waiving of the specific regulatory requirement will have no adverse effect on any children placed in the home, and that the objective of the requirement will be assured in an alternate fashion.
- *Instruction* – Agencies are encouraged to be mindful of the expectation to keep children in relative homes whenever feasible, and are encouraged to use the waiver request process, to facilitate home approval in a timely fashion. Efforts to eliminate home approval barriers, such as alternate means to meeting training requirements, should also be considered.

#### Placing Siblings Together

- *Requirement* - Reasonable efforts must be made to place siblings together or, if not possible, to facilitate ongoing contacts, unless contraindicated for safety or well-being reasons. This requirement does not reflect a new philosophy for agencies, but rather codifies the need for agencies to be structured and accountable for their practice of it.
- *Instruction* - When removing siblings from home, provided there is no contraindication for doing so, agencies must make every attempt to find an approved or approvable resource home that is able to accommodate all siblings, both physically and dispositionally, even if a waiver request is needed to do so. 'Every attempt' in this context means considering all kin, relative and provider agency homes that will allow the children to remain in or as close to their home community as possible. Efforts to keep the children together should be documented in the record. If the agency is unable to place siblings together, efforts to keep them as proximal to each other as possible should be made, following the same instruction for home search. A case plan with contact frequency, location and participants must feature opportunities for regular sibling face-to-face visitation, at no less frequency than once per month. Visits may be coincident with parent/guardian visitation, if appropriate and convenient. Case plans should also include a phone contact schedule to assist siblings in maintaining their familial connection.

#### Educational Stability/School Travel Reimbursement

- *Requirement* – The child's case plan must include provisions to assure the educational stability of the child while in foster care. The new law requires that the agency work in partnership with the local school district to allow the child to remain in the child's home school when doing so is in the child's best interests; this provision includes reimbursement for reasonable travel to and from the child's home

school. Again, this requirement does not reflect a new philosophy for agencies, but rather codifies the need for agencies to be structured and accountable for their practice of it.

- *Reference* - OCYF Bulletin #3130-08-01/3140-08-03, Educational Stability and Continuity for Children in Substitute Care. By §3130.67 (b) (iv), (relating to placement planning), agencies are to take a child's proximity to school and appropriateness of the educational placement into account when placing a child. *By the new federal legislation, the cost of reasonable travel to and from school, to enable a child to remain in the same school, may now be included as an allowable foster care maintenance cost.*
- *Instruction*- When developing the Child's Permanency Plan, agencies must include documentation of efforts to keep the child in his or her previous school, including efforts to arrange for transportation (e.g., reimbursement to a foster parent, coordination with school district, navigating public transportation options, etc.). Documentation should also include how the current school enrollment meets the child's educational needs. Only when it is not in the child's best interest to remain in their home school should the child be enrolled immediately in the school where their placement is located. Additionally, the case plan should include how visits and appointments will be made during non-school hours whenever possible. County agencies are required to establish partnerships with local school districts to facilitate the requirement to assure educational stability for children in care. In addition, OCYF continues to work with the Pennsylvania Department of Education (PDE) to insure the educational needs of children and youth are met, and will focus attention of these provisions. The ELC will be providing input to assist in determining the nature of the coordination between agencies and the child's home school district.

#### Assurance of School Attendance

- *Requirement* – Assurances must be made that each child, of compulsory school age, who is receiving Title IV-E foster care, adoption or guardianship maintenance payments (should Pennsylvania choose the subsidized kinship guardianship option), is a full-time student or is incapable of attending school due to a documented medical condition. Home schooling, meeting state requirements, will qualify. This requirement is new in that it includes populations of children who have an ongoing fiscal relationship with children and youth *only*, but are no longer active cases.
- *Instruction* - Agencies are already required to maintain a child's education records in the child's record, per 55 Pa. Code §3130.43 (c) (10) (relating to family case records). Currently, however, there is no mechanism to collect updated school information on children receiving adoption subsidies, (or guardianship subsidies, should Pennsylvania choose the subsidized kinship guardianship option). While the

revised Title IV-E manual will be addressing this issue, in the meantime, counties must include a question relative to school attendance in the annual contact with adoptive families receiving subsidy for a child of compulsory school age. Adoption subsidy agreements must now include the specific expectation that the adoptive parents will notify the agency if a child of compulsory school age is no longer a full-time student, as well as the expectation that this information will be requested annually during the agency's required contact. OCYF is requesting guidance from ACF regarding the issue of family non-response to annual contacts.

#### Personalized Transition Plan

- *Requirement* - Case plan for the child must include a personalized transition plan for youth emancipating from federally-defined foster care during the 90 days prior to the planned emancipation at age 18 or later. This requirement is new for agencies.
- *Reference* - §3130.67 (b) (11), (relative to placement planning), enjoins county agencies to consider transition planning for children age 16 and older who are in foster care, and will be moving to independent living. *The new requirement moves beyond 'consideration' to 'requiring' within 90 days of discharge, and creates greater accountability. The new requirement also mandates that the transition plan be reviewed by the court before the youth is discharged from care.*
- *Instruction* - As part of the Child Permanency Plan, agencies must develop a youth-directed transition plan designed to meet the specific needs of any child in agency custody for whom there is a case plan to discharge the child from agency custody at age 18 or later. The transition plan must be done within the 90 days prior to the anticipated court discharge, and must include elements of ongoing or planned permanency connections, as well as plans to meet the child's housing, education, service, financial, physical and behavioral health needs and any other needs identified by the youth. Current service providers should be included in the planning to insure needed transitions to adult services will occur. This plan must be reviewed by the court prior to discharge.
- *Note* - The plan must also include notification to the youth of the option to request the court to allow the youth to remain in care, provided the youth is engaged in a secondary or postsecondary educational or vocational program or, an alternate course of instruction or treatment.

#### Extension of Services to Youth Achieving Permanency at Age 16+

- *Provision* - The law amends the Chafee Foster Care Independence Program (CFCIP) and the Education and Training Grant (ETG) Program explicitly to extend benefits to youth who exit foster care and enter into kinship guardianship or adoption after turning age 16. While Pennsylvania has used the flexibility of these two programs to include these children as part of the population served, the change in

the law will allow federal monies to now be used for the full range of service benefits, including room and board for those children exiting care to permanent situations after age 16. Up until now, state and local monies were the only source of room and board support for that population. The law does not specify that guardianship or adoption be subsidized in order for the youth to qualify.

- *Instruction* - Prior to the finalization of the kinship guardianship or adoption for a child age 16 or older, the agency must provide written notification to both the child and the permanent caregiver(s) of the child's eligibility for CFCIP and ETG benefits; the notification must include information about the programs, how to access them and the fact that the child can initiate access up to age 21. There should be signed documentation in the child's record that this information package was provided.

#### Health Oversight/Coordination Plan

- *Requirement* – The Title IV-B Plan requirement was amended to insure that States and Tribes coordinate with the State Medicaid agency to develop an oversight plan for coordination of all health care services, including mental and dental, for children in foster care. Currently, children in foster care are tracked through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, with county assistance offices working closely with children and youth.
- *Reference* – OCYF Bulletin #99-94-03, "EPSDT Protocol for Children in Placement", as well as §3700.51 (relating to medical and dental care) and §§3800.141-149 (relating to child health).
- *Instruction* - Children in foster care should continue to receive periodic physical and behavioral health screenings, as well as dental and vision exams, according to the schedules delineated in these policy and regulatory cites. Agencies should review their practice protocols to insure that evidence of health plan coordination is included in the child's record.

#### Federal Adoption Tax Credit

- *Requirement* – Title IV-E agencies must inform prospective adoptive parents of the adoption tax credit. This requirement is new for agencies.
- *Instruction* - The revised Title IV-E manual will include information about this issue, and the model Adoption Assistance Agreement will insure information delivery to prospective adoptive parents of children eligible for subsidy. However, this credit applies to all adoptions, not only those subsidized. Agencies must insure that prospective adoptive parents are provided with information about their possible eligibility to claim adoption tax credit, and agencies must document in the record that the information was provided.

- *Note* – OCYF will develop a model form to be disseminated with the issuance of a more formalized policy directive. In the meantime, it is recommended that agencies develop a simple form that prospective adoptive parents can sign, acknowledging that they have been informed about the adoption tax credit. The form should note that adoptive parents should consult with their tax advisor if they have questions. Including the Internal Revenue webpage link on the form may be helpful:  
<http://www.irs.gov/taxtopics/tc607.html> .

#### Promotion of Adoption of Children With Special Needs

- *Requirement* – The law makes changes to the adoption assistance program by de-linking the adoption assistance program from the AFDC requirements and by changing other program requirements, with most changes taking effect beginning **October 1, 2009**.
- *Instruction* – The phase-in is based on whether the child is defined as “an applicable child”, which primarily relates to the age of the child in the year the adoption assistance agreement becomes effective. The revised program rules apply to children who turn 16 or older and for whom an adoption assistance agreement is entered into in Federal Fiscal Year 2010 (October 1, 2009 – September 30, 2010). Each subsequent year the qualifying age to apply the revised program rules decreases by two years until children of any age may be eligible, according to the revised criteria, on October 1, 2017.

Children of any age who have been in foster care for 60 consecutive months (5 years) or who are a sibling to a child who is eligible due to the sibling’s age (based on the requirements mentioned above) or length of time in foster care (60 consecutive months) are also exempt from the AFDC requirement. In order to comply with this requirement, siblings must be placed in the same adoptive placement. Further guidance is being requested from ACF regarding whether siblings must be placed in the same adoptive placement at the same time in order to meet this requirement.

Even though these children no longer need to meet the AFDC requirement to be eligible for Title IV-E funding, they must continue to meet the special needs requirements: free for adoption; special needs characteristic; reasonable, but unsuccessful efforts made to place the child with appropriate parents without providing adoption assistance.

*Starting October 7, 2008, children who have special needs but who are not citizens or residents of the United States and were either adopted in another country or brought to this country for the purposes of adoption are categorically ineligible for adoption assistance, except if the child meets the eligibility criteria after the disruption of the international adoption.*



*Note* - The revised Title IV-E manual will include information about these issues.

Any questions regarding this transmittal should be directed to the appropriate OCYF Regional Office.

c: Ms. Sandra Moore (AOPC)  
Mr. Charles Songer (PCYA)  
Mr. James Anderson (JCJC)  
Ms. Bernadette Bianchi (PCCYFS)  
Mr. Connell O'Brien (PCPA)

COUNTY AGENCY LETTERHEAD

**Notification for Kinship Caregiver Opportunity**

You have been identified as a kinship relation to \_\_\_\_\_, a child who cannot remain in the care of his/her parent(s). This letter will serve as notice of your opportunity to express interest in being considered as a placement resource for \_\_\_\_\_. Please take the time to read over the following information so that you may decide whether or not you wish to pursue becoming an approved caregiver for this child. We will be happy to answer any questions you have about the information provided, but you will need to respond to us by this date, \_\_\_\_\_, in order to be considered.

Kinship care is the full-time nurturing and protection of a child who is separated from his/her parents and placed in the home of a caregiver who has an existing relationship with the child and/or the child's family. In most cases, a kinship caregiver is a relative of the child by blood or marriage, but kin may also include members of a tribe or clan, a godparent through a recognized church or someone who has a significant relationship with the child or the family.

When the county agency has legal custody of a child, and out-of-home placement is made with a kinship caregiver approved as a resource parent to provide foster care for the child, the arrangement is termed 'formal kinship care'. ('Informal kinship care' occurs when families agree to private arrangements for kin to provide care for a child, and the county agency does **not** take legal custody of the child.)

When a child is in the custody of the county agency, and placement is planned with a kinship caregiver, the caregiver must meet all of the foster care approval requirements of the foster family care agency as well as those set forth in Title 55 Pa. Code, Chapter 3700 (relating to Family Foster Care Agency).

Unless you are already an approved resource parent, if you choose to become an approved caregiver for the child, the county agency or a private foster family care agency will complete an assessment of you and your home.. If the child who is in the custody of the county agency was placed with you on an emergency basis, in order for the child to remain in your care, resource parent approval must occur **within 60 days**. The county agency or private foster family care agency will assist and guide you through this process. If you are approved as a resource parent, you can receive foster care maintenance payments for the care of the child.

You must meet the following **minimum** foster care requirements set forth in Chapter 3700 in order to become an approved resource parent:

- Be at least 21 years of age;
- Have a medical appraisal performed by a licensed physician to establish that you are physically able to care for the child and are free from communicable disease;
- Complete a criminal background record, including an FBI check, and child abuse clearance to determine the existence of certain criminal offenses and/or history of child abuse;
- Undergo at least two interviews with a caseworker. The purpose of these interviews is to enable the agency to assess the following:
  - your ability to provide care, nurturing and supervision to the child and to protect the child from abuse or neglect;
  - your mental and emotional stability;
  - your supportive ties within the community;
  - your own relationships;
  - your ability to work in partnership with the agency, the child and his/her family; and
  - your ability to discipline the child without using physical or corporal means;
- Consent to agency inspection of your house to make sure it meets all of the requirements for foster family residences, including:
  - safety caps on electrical outlets;
  - poisonous materials marked and not accessible to children;
  - an operable portable fire extinguisher;
  - heating devices which have been properly installed and maintained;
  - emergency telephone numbers posted adjacent to the telephones;
  - operable smoke detectors;
  - separate and adequate bedroom space for the child;
  - drinkable well water (if you have a well, it must be tested);
  - an operable heating system; and
  - an operable telephone;
- Supply several references, (these may include your family physician, family members, neighbors and other unrelated persons);
- Complete an orientation program for new resource parents;
- Participate in six hours of agency approved training annually; and
- Cooperate with an annual re-evaluation.

*To be an approved resource parent you must meet all of the above requirements. However, in any case in which a non-safety related requirement can not be met, making home approval difficult (a health problem, for instance), our office may request a waiver. A waiver request is possible for any regulatory requirement that would not affect the health, safety or rights of the child. Such a request would be submitted to the Department of Public Welfare for approval.*

In some situations, we may conduct an initial home visit and assessment and recommend that the child be placed with you while a full home assessment is being completed. If such a placement occurs, you must obtain criminal, FBI

and child abuse clearances from the appropriate offices **immediately** upon placement of the child. Our agency will provide you with the necessary forms, and direction. *You are eligible for payment of the child's care during this period.*

If these clearances are not returned to you within **60 days** of the initial placement of the child, your home cannot be approved. During this 60 day period, the rest of the home assessment must also be completed. Again, if any portion of the assessment, including training requirements are not completed by the 60<sup>th</sup> day of placement, *your home cannot be approved.*

**These timetables are important to remember.**

Not all applicants are approved. If you do not, or your home does not, meet regulatory requirements at the time of the home assessment, we will notify you that we cannot approve you as a resource parent. If you are not approved as a resource parent, you have the right to appeal the decision to the Department of Public Welfare. Should this situation arise, we would provide you with notice of your right to appeal. If you are not approved as a resource parent, the child may not be able to remain in your care while in the legal custody of the county agency unless ordered by the court.

If you are not approved and still want to provide care to the child, an option would be to transfer custody of the child to you giving you legal guardianship. Should this occur, financial support and medical coverage may be available either directly from the parents or through the County Assistance Office (CAO). This would include Temporary Assistance for Needy Families (TANF) benefits. The phone number for the local CAO is \_\_\_\_\_. The CAO worker will assist you in determining what benefits are available. Our agency will remain available to assist you in this process.

If you are approved as a resource parent, you can expect the following to occur:

- You are eligible to receive the same foster care maintenance payment as a non-relative/non-kin resource parent for the care of the child. In addition, a Pennsylvania Medical Assistance Card or HMO Membership Card may be available to the child to cover medical costs.
- You may work with more than one caseworker. One may be a coordinator who will meet with you periodically after your home assessment is completed to assist you in understanding your role as a resource parent with our agency and providing you with support services. Another caseworker may work with you, the child and the child's parents towards the short and long-term goals of placement and permanency for the child. You will see one of these workers at least monthly.

- You will be expected to be the primary caregiver to the child and to work with the agency and the child's family around visitation and planning for the child. This expectation includes participation in service plans, ongoing team meetings, and court hearings if requested. You will need to keep the agency aware of all contact between the child and his/her parents. You will care for the child as a parent would, working at all times to nurture and meet his or her developmental needs.

Formal kinship care, as is true for all types of substitute care, is intended to be *temporary*. Out-of-home placement allows the family a reasonable period of time to correct the circumstances that resulted in the placement of the child. The agency has a duty to work toward the most permanent home possible for the child in the most timely manner possible. As a result, the agency conducts **concurrent planning**, a practice that plans for family reunification while, at the same time, plans for an alternate permanency option. A permanency plan is developed as soon as a child is placed in foster care.

Permanency plan options include the following:

- return home;
- adoption;
- placement with a permanent legal custodian;
- placement with a fit and willing relative; and
- another planned placement that is intended to be permanent.

The information provided to you is intended to assist you in making decisions regarding your willingness and ability to provide kinship care or permanency to the child(ren). Should you have further questions, you may contact the caseworker or supervisor listed below.

Caseworker: \_\_\_\_\_

Casework Supervisor: \_\_\_\_\_

Agency Phone #: \_\_\_\_\_

Date: \_\_\_\_\_