
OVERVIEW

Indian Child Welfare Act (ICWA)/Michigan Indian Family Preservation Act (MIFPA) cases may be transferred to a tribal court upon request of either parent or tribe (MCL 712B. 1 - 41). MDHHS has established and maintains procedures for the transfer of responsibility for the placement and care of a child under Michigan's title IV-E plan to a Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement.

Title IV-E federal regulations apply to Indian child welfare case transfers based upon jurisdiction and/or care and supervision of child designations (Fostering Connections to Success and Increasing Adoptions Act, P.L. 110-351).

Policy is established and maintained in consultation with tribes to ensure continuity of services/benefits for the Indian child after the case transfer occurs.

**TRANSFER TO
TRIBAL
AGENCY/COURT
PROTOCOL****In-State Tribal
Agency/Court
Transfer with State
Tribal IV-E
Agreement**

Prior to case transfer, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trust, etc...) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice, and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

Caseworkers should utilize a DHS 120-B, Transfer to Tribal Agency/Court, form to assist with review and transfer. A DHS 120-B, Transfer to Tribal Agency/Court form, must be completed and scanned into the Michigan State Automated Child Welfare Information System (MiSACWIS) case file. Upon request from the

tribe, caseworkers will forward all required documentation to the tribe within 30 days.

**In-State Tribal
Agency/Court
Transfer with a
Direct Title IV-E
Agreement
(Federal)**

Prior to case transfer, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trust, etc...) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice, and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

Caseworkers should utilize a DHS 120-B, Transfer to Tribal Agency/Court, form to assist with review and transfer. A DHS 120-B, Transfer to Tribal Agency/Court, form must be completed and scanned into the MiSACWIS case file. Upon request from the tribe, caseworkers will forward all required documentation to the tribe within 30 days.

MDHHS will establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed and provide all title IV-E funding determinations to the tribe. A DHS 352, Initial Funding Determination packet, supporting documents, Bridges screen shots must be sent to the tribe to support a title IV-E funding determination. The transfer does not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX.

Caseworkers must provide the tribe a copy of placement history and provider license.

Out-of-State Tribal Agency/Court Transfer

Tribal Jurisdiction, Care and Supervision of Child

Michigan negotiates in good faith with any federally-recognized American Indian tribe, tribal organization or tribal consortium that requests to develop an agreement with MDHHS to administer all or part of the title IV-E program on behalf of American Indian children who are under the authority of the tribe, organization, or consortium. This includes title IV-E foster care maintenance payments on behalf of children who are placed in MDHHS or tribally licensed foster family homes, adoption assistance payments, and guardianship payments and tribal access to resources for administration, training, and data collection under title IV-E. The Office of Native American Affairs (NAA) may be contacted at (517) 335-7782 for process guidance.

Prior to case transfer, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trusts, etc..) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

Caseworkers should utilize the DHS 120-B, Transfer to Tribal Agency/Court, form to assist with review and transfer. A DHS 120-B, Transfer to Tribal Agency/Court, form must be completed and scanned into the MiSACWIS case file. Upon request from the tribe, caseworkers will forward all required documentation to the tribe within 30 days.

MDHHS will establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed and provide all title IV-E funding determinations to the tribe. A DHS 352, Initial Funding Determination packet, supporting documents, Bridges and other relevant screen shots must be sent to the tribe to support a title IV-E funding determination. The transfer does not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX.

Caseworkers must provide the tribe a copy of placement history and provider license.

MDHHS foster care and title IV-E funding from the state of Michigan will be closed/stopped upon acceptance from the receiving title IV-E tribal agency or court in order for the tribe and state to claim the title IV-E expenditures according to federal regulations.

Tribal Court Jurisdiction Only (Michigan MDHHS Care and Supervision)

Prior to case transfer from state court to tribal court, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trust, etc..) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

Caseworkers should utilize the DHS 120-B, Transfer to Tribal Agency/Court, form to assist with review and transfer. A DHS 120-B, Transfer to Tribal Agency/Court, form must be completed and scanned into the MiSACWIS case file. Upon request from the tribe, caseworkers will forward all required documentation to the tribe within 30 days.

If Michigan MDHHS is providing care and supervision of the child, Michigan MDHHS will fund the cases according to state and federal law.

Tribal Court Jurisdiction Only (Other State/PAFC Care and Supervision)

Prior to case transfer, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trust, etc...) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

Caseworkers should utilize the DHS 120-B, Transfer to Tribal Agency/Court, form for review and transfer. A DHS 120-B, Transfer

to Tribal Agency/Court, form must be completed and scanned into the MiSACWIS case file. Upon request from the tribe, caseworkers will forward all required documentation to the tribe within 30 days.

MDHHS will establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed and provide all title IV-E funding determinations to the tribe. A DHS 352, Initial Funding Determination packet, supporting documents, Bridges screen shots must be sent to the tribe to support a title IV-E funding determination. The transfer does not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX.

Caseworkers must provide the tribe a copy of the placement history and provider license.

MDHHS foster care and title IV-E funding from the state of Michigan will be closed/stopped upon acceptance from the receiving title IV-E tribal agency or court in order for the tribe and state to claim the title IV-E expenditures according to federal regulations.

**Out-of-State Tribal
Agency/Court
Transfer with a
Direct Title IV-E
Agreement
(Federal)**

Prior to case transfer, caseworkers and supervisors must review the case plan, medical assistance and funding source to include any funds MDHHS is holding on behalf of the child (Social Security Income, Child Support, IV-D, trust, etc..) for each Indian child welfare case including children's protective services, foster care, adoption, juvenile justice and juvenile guardianship with the tribal agency/court and/or tribal social service department in the respective tribe of case transfer to ensure continuity of services.

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MDHHS will establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed and provide all title IV-E funding determinations to the tribe. A DHS 352, Initial Funding Determination packet, supporting documents, Bridges and other relevant screen shots must be sent to the tribe to support a title IV-E funding determination. The transfer does not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX.

Caseworkers must provide the tribe a copy of placement history and provider license.

Note: Cases transferred to tribal court do not automatically include case closure. There are instances where ICWA/MIFPA cases transferred to tribal court may be placed under the care and supervision of the department and remain an open MDHHS case.

It is the sole responsibility of the state to implement ICWA/MIFPA. The state must implement ICWA and MIFPA even if the child's tribe plays no part in the case.

CONTINUITY OF SERVICES

Caseworkers must review a tribe's child welfare code/law to determine child welfare practice in conjunction with the respective tribe to understand and ensure continuity of each tribe's child welfare policy/practice/services, child support policy/practice/services, and medical assistance policy/practice/services respectively (Title IV-E, Title IV-D, Child Support, Medical Assistance, Social Security, Trusts, Education Records, Health Records, etc..).

The department's goal is to work collaboratively with tribes to ensure children maintain the same services/benefits after a case transfer occurs; see FOM 803; follow Out-of-State Placement Procedures.

INTERSTATE COMPACT (ICPC)

Case transfers to and from other states and/or tribes with title IV-E programs may be facilitated through Interstate Compact on the Placement of Children (ICPC). The involvement of ICPC will be negotiated prior to case transfer.

LEGAL BASIS

Fostering Connections to Success and Increasing Adoptions Act,
P.L. 110-351.

Indian Child Welfare Act, 25 USC 1901 et seq.

Michigan Indian Family Preservation Act, MCL 712B. 1 - 41.

MCR 3.905 Indian Children; Jurisdiction, Notice, Transfer,
Intervention.