

OVERVIEW

The Michigan Department of Health and Human Services (MDHHS) provides title IV-E-funded and state-funded adoption assistance for children who meet the special needs criteria. Title IV-E adoption assistance is based on federal title IV-E funding guidelines. State-funded adoption assistance is based on state guidelines and provides assistance for children who meet the special needs requirements who do not qualify for title IV-E funded adoption assistance. Eligibility for either of these programs results in issuance of a DHS-4113, Adoption Assistance Agreement.

For a child to be eligible for adoption assistance, eligibility must be determined by MDHHS, and the DHS-4113, Adoption Assistance Agreement, must be negotiated and signed by the adoptive parents **and** the MDHHS Adoption and Guardianship Assistance Office (AGAO) program manager or designee prior to the final order of adoption.

APPLICATION PROCESS

The AGAO makes all eligibility determinations. The child's assigned adoption caseworker must submit the [DHS-1341, Adoption Assistance and/or Medical Subsidy Application](#), and required supporting documentation listed on the DHS-1341, Adoption Assistance and/or Medical Subsidy Application, for a child when:

- An appropriate adoptive family has been identified.
- The prospective adoptive parents are requesting an eligibility determination for adoption assistance.
- The child is legally free for adoption through termination of parental rights.

Exception: American Indian/Alaska Native children may be adopted under tribal customary adoption code or equivalent tribal code without termination of parental rights. The tribe must provide documentation explaining why the child cannot or should not be returned to the home of the parents. Children adopted under tribal court jurisdiction may be eligible for adoption assistance.

Note: Supporting documentation must be current at the time the complete application is received by the AGAO to be accepted and not be subject to expiration during the review process. If a

prospective adoptive family is working with an agency that does not have care and supervision of the identified child, the child's or the family's caseworker may submit the application for assistance through a cooperative effort between the agencies.

SPECIAL NEEDS CRITERIA FOR ADOPTION ASSISTANCE

A child's eligibility for either title IV-E-funded or state-funded adoption assistance is based in part on the state's determination that the child has met the special needs criteria.

Federal Requirements

A determination of special needs is a three-part requirement established in section 473(c) of the Social Security Act ([42 USC 673\(c\)](#)). All three parts of the special needs provision must be met for the child to qualify for special needs. The determination of special needs must be made by MDHHS, and a negotiated adoption assistance agreement must be signed **prior** to the final order of adoption.

The three-parts of the federal special needs determination are as follows:

1. The child cannot or should not be returned to the home of the parents.
2. A specific factor or condition exists which makes it reasonable to conclude the child cannot be adopted without providing title IV-E adoption assistance or title XIX medical assistance.
3. The state must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parents without providing adoption assistance, except in cases where it would be against the best interests of the child due to the existence of significant emotional ties with the prospective adoptive parents.

Michigan Requirements

Michigan has specific requirements to meet both the federal requirements and the state's special needs eligibility criteria.

At the time of eligibility determination, the child must be a child with special needs. A child is considered a child with special needs if MDHHS has determined **all** the following:

1. The child is under age 18.
2. The parental rights to the child have been terminated under MCL 712A.19b due to abuse and neglect or as a release under MCL 710.29 while the child was involved in an abuse or neglect proceeding.

Exception: Termination of parental rights under one of the above statutes is not required when the child being adopted meets the special needs criteria and:

- Is eligible for Supplemental Security Income (SSI) based solely on medical or disability requirements.
- Received title IV-E adoption assistance in a prior adoption and is being adopted under another private adoption statute of Michigan, another state, or tribal government.
- Is being adopted under an applicable child abuse and neglect tribal code or law and is under the jurisdiction of a tribal court within Michigan.

Note: If an American Indian/Alaska Native child is/are adopted through tribal customary adoption code or equivalent tribal code without termination of parental rights, the tribe must provide documentation explaining why the child(ren) cannot or should not be returned to the home of the parents.

3. The child has **one** of the following **specific factors or conditions**:
 - Eligibility for SSI, based solely on the medical or disability requirements without regard to the SSI income requirements, as determined by the Social Security Administration.

- A MDHHS determination of care (DOC) level II or medically fragile level II or higher DOC or severe emotional disturbance waiver (SEDW) rate that meets all the following:
 - Documented by the DHS-470, 470A, 1254, or 1945.
 - Supported by the current foster care case service plan.
 - Approved per MDHHS foster care policy.
- The child is a minimum of three years of age. .
- The child is being adopted by a relative, as defined by [MCL 712A.13a](#).
- The child is being adopted by the parents of their previously adopted sibling.
- The child is a member of a sibling group being adopted together and at least one sibling group member has been determined eligible for adoption assistance as an individual.
- The child has an active guardianship assistance agreement through MDHHS at the time the adoption assistance application is submitted.

Note: Placements made with an unrelated licensed foster parent cannot be changed to a relative placement while the child is in their home. A putative father is not considered a relative.

4. An effort to place the child without providing adoption assistance is demonstrated by the adoptive parents signatures in Section 1 of the [DHS-4081, Adoption Assistance Intent Statement](#).

TITLE IV-E FUNDING ELIGIBILITY REQUIREMENTS

On Oct. 1, 2009, the Fostering Connections to Success and Increasing Adoptions Act of 2008 ([P.L. 110-351](#)) phased in revised title IV-E funding eligibility requirements for specific children with special needs over a nine-year period. A child with special needs to

whom the revised eligibility requirements apply is referred to in the federal law as an **applicable child**.

On Feb. 9, 2018, the Family First Prevention Services Act (FFPSA) ([P.L. 115-123](#)) was enacted, and as a result, beginning Jan. 1, 2018, until June 30, 2024, the applicable child requirements apply **only** to children who will be age two or older by the end of the fiscal year their adoption agreement was entered; see *Appendix - Title IV-E Funding* in this item.

Note: Title IV-E adoption assistance agreements entered prior to Jan. 1, 2018, are not affected by these changes.

Title IV-E agencies may claim title IV-E allowable costs incurred pursuant to adoption assistance agreements entered between Jan. 1, 2018, and Feb. 9, 2018, for children who were eligible for adoption assistance at the time the agreements were entered into but lost their eligibility as a result of the change made by FFPSA. These are children who were eligible under the **applicable child** eligibility requirements in effect before FFPSA was passed, but who will not reach the age of two by the end of fiscal year 2018. Some of these children may otherwise be eligible for adoption assistance under the criteria for a child who is not applicable or could be an applicable child by virtue of being the sibling of an applicable child as explained at section 473(e)(3) of the Act.

To qualify for adoption assistance funded by title IV-E, a child who meets the state's special needs requirements must also meet either the **applicable child** or **not applicable child** requirements.

The following citizenship, felony conviction, and agreement requirements apply to both applicable child and not applicable child title IV-E funded cases.

Citizenship Status

The child must be a United States (U.S.) citizen or legal qualified non-citizen; see [FOM 902, Funding Determination and Title IV-E Eligibility](#).

Felony Convictions

Adult members of the adoptive household must not have a felony conviction for any of the crimes listed below. This must be documented for all adults living in the home by the CWL-1326, Licensing Record Clearance Request, [MDHHS 5612-A, Verification](#)

[of Tribal Adoption Assistance Safety Requirements](#), for tribal families, or for out-of-state families a copy of the home study that documents national finger printing was completed and the outcome.

- Child abuse/neglect.
- Spousal abuse.
- A crime against children, including child pornography.
- A crime of violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.
- Within the last five years only: physical assault, battery, or drug-related offense.

Title IV-E Applicable Child Requirements

In addition to meeting the citizenship and background check requirements, the child must meet one and two below:

1. An **applicable child** is a child with special needs who meets one or more of the following requirements immediately prior to finalization of the adoption:
 - Meets the applicable age requirements. The determination of applicable child is based on the child's age at the end of the fiscal year their adoption assistance agreement was entered; see *Appendix - Title IV-E Funding* in this item.
 - Has been in foster care during any 60 consecutive months prior to the finalization of the adoption.
 - Is a sibling to a child who meets one of the above applicable child requirements and will be adopted by the same adoptive family.
2. The **applicable child** must also meet **one** of the following title IV-E funding eligibility requirements:
 - The child, at the time of the initiation of the adoption proceedings, was in the care of a public or private licensed placement agency foster care (PAFC) provider or Indian tribal organization pursuant to one of the following:

- An involuntary removal in accordance with and at the time of a judicial determination to the effect that it was contrary to the child(ren)'s welfare to remain in the home.
- A voluntary placement agreement or voluntary relinquishment.
- The child meets all medical or disability requirements of SSI.
- The child was residing in a foster family home or child caring institution with their minor parent and the minor parent was removed from the home pursuant to either:
 - An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home.
 - A voluntary placement agreement or voluntary relinquishment.
- The child was adopted and was/were determined eligible for title IV-E adoption assistance in a prior adoption and is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died. The child must be re-determined to be a child with special needs by MDHHS to be eligible for adoption assistance in the subsequent adoption.

Signed Agreement

A negotiated DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parents and the AGAO program manager or designee **prior** to the final order of adoption.

International Adoptions

Title IV-E prohibits the payment of title IV-E adoption assistance on behalf of an **applicable child** who is not a citizen or resident of the U.S. and was either adopted outside the U.S. or brought to the U.S. for the purposes of being adopted.

Title IV-E Not Applicable Child Requirements

A child with special needs who is referred to as a **not applicable child** is one to whom the revised title IV-E funding requirements do not apply and to whom the eligibility requirements in place prior to Oct. 1, 2009, do apply.

In addition to meeting the citizenship and background check requirements the special needs child must meet one of the following four pathways to receive title IV-E funding ([42 USC 673](#)):

1. The special needs child must meet both of the following criteria to receive title IV-E funding (42 USC 673):
 - The child was eligible for the former Aid to Families with Dependent Children (AFDC) program at the time of removal from the specified relative home, based on the state's approved AFDC plan in effect July 16, 1996.
 - The child was removed from the home due to a judicial determination that found it was contrary to the child's welfare to remain in the home.
2. The child meets all the medical or disability requirements for SSI benefits.
3. The child is a child of a minor parent covered by title IV-E foster care payments. The minor parent is in foster care and receives a title IV-E foster care maintenance payment that covers both the minor parent and the child of the minor parent, and the child of the minor parent meets the special needs requirements. There is no requirement that the child must have been removed from home due to a voluntary placement agreement or because of a judicial determination.
4. The child was eligible for title IV-E adoption assistance in a previous adoption and the state has determined the child continues to meet the special needs criteria. The manner of removal from the adoptive home is not relevant for a subsequent adoption. Title IV-E eligibility does not need to be re-established in a subsequent adoption.

**State-Funded
Adoption
Assistance**

If the Michigan requirements for a child with special needs are met but the child does not meet the title IV-E funding eligibility requirements above, state-funded adoption assistance agreement is offered.

Signed Agreement

A negotiated DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parents and the AGAO program manager or designee **prior** to the final order of adoption.

**Not Requesting
Adoption
Assistance**

Prospective adoptive parents may choose not to apply for adoption assistance. Prospective adoptive parents must document their decision by completing section two of the [DHS-4081, Adoption Assistance Intent Statement](#).

The adoption caseworker must submit a copy of the DHS-4801, to the AGAO by uploading the document to the subsidy shell in the electronic case management system. Once the document is uploaded, the caseworker must notify the AGAO via the [MDHHS AGAO Apps and Openings mailbox \(MDHHS-AGAO-Apps-and-Openings@michigan.gov\)](#).

**Adoption
Following a
Juvenile
Guardianship**

If a guardian has an active guardianship assistance agreement and wishes to pursue adoption of a child, and the child meets the state's special needs criteria for the adoption assistance program, the funding determination for adoption assistance will not consider the guardianship placement or the guardianship assistance payments that were made for the child.

If the child would have met the funding determination for title IV-E adoption assistance prior to the juvenile guardianship, the title IV-E funding determination will be carried forward to an adoption following a juvenile guardianship.

Adoption Following a Dissolved International Adoption

A child who is not a citizen or resident of the U.S. and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for adoption assistance if the initial adoption of the child is dissolved and the child is then placed into foster care through the public child welfare system. The child's circumstances must meet the state's special needs eligibility requirements.

Background Checks and Clearances

Federal law ([P.L. 109-248](#)) requires background checks and central registry clearances for all adults in the adoptive household regardless of whether title IV-E or state-funded adoption assistance payments are to be made on behalf of the child; see [ADM 0520, Background Checks, Clearances, Criminal History Checks and Fingerprinting.](#)

Adoption by Birth or Legal Parents

A child's biological or legal parents whose rights were previously terminated are not eligible for adoption assistance.

AGREEMENT

The DHS 4113, Adoption Assistance Agreement, is the negotiated written agreement between the adoptive parents and MDHHS and must contain:

- The negotiated amount of adoption assistance to be paid.
- Whether the child has been determined eligible for title IV-E or state-funded adoption assistance, nonrecurring adoption expenses reimbursement, and Medicaid.
- The signatures of the adoptive parents and AGAO program manager or designee.

Detailed information about the agreement is in [AAM 500, Adoption Assistance Agreements - All Programs](#).

Effective Date

If the DHS-4113, Adoption Assistance Agreement, is signed **before** the adoptive placement date, the adoption assistance payment is effective the date of the PCA 320, Order Placing Child After Consent, is signed by the court.

If the DHS-4113, Adoption Assistance Agreement, is signed **after** the adoptive placement date, but prior to or on the date of the adoption finalization, the adoption assistance payment is effective the date the AGAO program manager or designee signs the agreement.

Although policy allows for determination of adoption assistance eligibility after the petition for adoption is filed, MDHHS and private contracted agency caseworkers are expected to have adoption assistance agreements signed by all parties before the court signs the PCA 320, Order Placing Child After Consent. This practice allows adoption assistance payments to begin at the earliest allowable date. **Adoption assistance agreements must be signed by the adoptive parents and the AGAO program manager or designee prior to the PCA 321, Final Order of Adoption.**

State of Residency of Adoptive Parents

Michigan adoption assistance agreements remain in effect regardless of the state of residence of the adoptive parents.

CHANGES IN FAMILY OR CHILD'S CIRCUMSTANCES

After an adoption assistance application has been submitted and approved or denied, the adoption caseworker **must** submit a new [DHS-1341, Adoption Assistance and/or Medical Subsidy Application](#), if there is a change in the child's adoption plan or circumstances before adoption finalization. The child's eligibility for adoption assistance and nonrecurring adoption expenses programs must be redetermined.

When a change is made in the child's adoption plan or placement, the adoption caseworker must notify the AGAO within 30 calendar days of the change. Adoption assistance eligibility is not transferable from one family to another.

The [DHS-4817, Adoption Assistance Program Change Request](#), is used to report all changes prior to adoption finalization.

Changes Before Adoptive Placement

The adoption caseworker **must** report changes in the adoption plan or foster care rate to the AGAO. A new determination of eligibility and maximum rate is required. If the child is found eligible, a new DHS-4113, Adoption Assistance Agreement, is issued and must be negotiated and signed by the adoptive parents and the AGAO program manager or designee prior to the final order of adoption. Examples of changes are:

- Divorce of the prospective adoptive parents.
- Marriage of the prospective adoptive parents.
- Death of a prospective adoptive parent.
- Change in plan for adoption by the prospective adoptive family.
- Increase or decrease in the foster care maintenance payment that the child is receiving or would receive if placed in a licensed foster home.

Adoption Plan Changes

Each change in the adoption plan requires a new complete [DHS-1341, Adoption Assistance and/or Medical Subsidy Application](#), with required documentation, and [DHS-4081, Adoption Assistance Intent Statement](#).

Rate Changes

Each change in rate requires a [DHS-4817, Adoption Assistance Program Change Request](#), current DOC assessment, and supporting documentation.

Changes After Adoptive Placement

If the placement of a child in an adoptive home ends prior to finalization of the adoption, the adoption caseworker must notify the

AGAO immediately by submitting the court order and a [DHS-4817, Adoption Assistance Program Change Request](#), explaining the reason for disruption.

If the child is subsequently matched with another adoptive family, the caseworker must complete and upload a new application with supporting documentation to a new subsidy shell in the electronic case management system and email the [MDHHS AGAO Apps and Openings mailbox \(MDHHS-AGAO-Apps-and-Openings@michigan.gov\)](#) and the assigned adoption assistance eligibility analyst; see *Application Process* in this item. If eligible, a new DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parents and AGAO program manager or designee prior to the final order of adoption.

Changes After Adoption Finalization

Dissolved Adoption

If the adoption of a child is ended through termination of parental rights, the adoption assistance ends. If the child is subsequently matched with another adoptive family, the caseworker must complete and upload a new application with supporting documentation to a new subsidy shell in the electronic case management system and email the [MDHHS AGAO Apps and Openings mailbox \(MDHHS-AGAO-Apps-and-Openings@michigan.gov\)](#). The AGAO will make a new determination of special needs eligibility, and if eligible, a DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parents and AGAO program manager or designee prior to the final order of adoption. If the child continues to be a child with special needs, as determined by the state and was eligible for title IV-E funded assistance in the previous adoption, the title IV-E funding eligibility is carried forward to the subsequent adoption.

Death of Adoptive Parents

If a legal guardian is appointed after the death of the adoptive parents, continuation of adoption assistance with state funds may be available under [MCL 400.115j\(8\)](#); see [AAM 620, Post Placement Adoption Subsidy Placement Duration - All Placements](#).

**SPECIFIC ERROR
DETERMINATION
REVIEW**

Federal and state laws require adoption assistance eligibility and nonrecurring adoption expenses eligibility be determined and an adoption assistance agreement be negotiated and signed by the adoptive parents and the AGAO program manager or designee prior to the final order of adoption.

Exception: The AGAO does not have the authority to approve requests for adoption assistance after the finalization of the adoption. These requests may be approved as a result of the administrative hearing process; see [AAM 700, Adoption Assistance Administrative Hearings](#).

If the adoptive parents believe an error occurred, a written request for a case review and supporting documentation must be submitted to the AGAO at the address below:

Michigan Department of Health and Human Services
Adoption and Guardianship Assistance Office
Hearings Coordinator
235 S. Grand Ave., Suite 612, PO Box 30037
Lansing, MI 48909

The AGAO will review the request and determine if more information is needed to determine the circumstances of the adoption.

The AGAO will review the child's circumstances and determine adoption assistance eligibility based on the Adoption Assistance Manual (AAM) eligibility policy in effect at the time the child's adoption was finalized.

After review of all documents, the AGAO will send a written response of the findings to the adoptive family. The response will include information about the right to request an administrative hearing; see [AAM 700, Adoption Assistance Administrative Hearings](#).

LEGAL
Federal***Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248)***

Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and state child abuse registries.

Family First Prevention Services Act of 2018 (P.L. 115-123)

Beginning Jan. 1, 2018, until June 30, 2024, the applicable child requirements apply only to children who will be age two or older by the end of the fiscal year during which their adoption agreement was entered.

Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)

Revised title IV-E funding eligibility requirements for specific children with special needs over a nine-year period.

Social Security Act, 42 USC 673

Adoption and guardianship assistance program.

State***The Probate Code, 1939 PA 288, MCL 712A.13a(1)(j)***

"Relative" means an individual who is at least 18 years of age and related to the child within the fifth degree by blood, marriage, or adoption, including the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, the parent who shares custody of a half-sibling, and the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child.

A relative may also be an individual who is at least 18 years of age and not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the department or, if the child is an Indian child, as determined solely by the Indian child's tribe.

The Social Welfare Act, 1939 PA 280, MCL 400.115f

Support subsidy; payment; requirements; determination of amount; maximum amount; form to be signed by adoptive parent; presentment of first offer by adoptive parent; acceptance or counteroffer by department; completion of certification process.

The Social Welfare Act, 1939 PA 280, MCL 400.115h

Medical subsidy; payment; requirements; prohibited payment; determination of amount; third party payments; waiver of subsection (3); time of request; payment for treatment of mental or emotional condition.

The Social Welfare Act, 1939 PA 280, MCL 400.115i

Adoption assistance agreement; redetermined adoption assistance agreement; medical subsidy agreement; copy; modification or discontinuance; legal status, rights, and responsibilities not affected; report.

The Social Welfare Act, 1939 PA 280, MCL 400.115j

Adoption assistance, medical subsidy, or redetermined adoption assistance; extension; continuation.

The Social Welfare Act, 1939 PA 280, MCL 400.115k

Appeal of determination; notice of rights of appeal.

The Social Welfare Act, 1939 PA 280, MCL 400.115l

Child with special needs; agreement for payment of nonrecurring adoption expenses; limitation; signature; filing claims; notice to potential claimants.

The Social Welfare Act, 1939 PA 280, MCL 400.115m(1)

The department shall prepare and distribute to adoption facilitators and other interested persons information describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide the information to each prospective adoptive parent before placing a child with that parent.

The Social Welfare Act, 1939 PA 280, MCL 400.115r

Interstate compact on adoption and medical assistance.

The Social Welfare Act, 1939 PA 280, MCL 400.115s

Interstate compacts; authorization; force and effect; contents.

POLICY CONTACT

Direct questions about this policy item to the [Child Welfare Policy Mailbox](mailto:Child-Welfare-Policy@michigan.gov) (Child-Welfare-Policy@michigan.gov).

APPENDIX - TITLE IV-E FUNDING

TITLE IV-E FUNDING APPLICABLE CHILD ELIGIBILITY CHART
473 of the Social Security Act (4225 c673)

FEDERAL FISCAL YEAR: OCTOBER 1 - SEPTEMBER 30

		2010	2011	2012	2013	2014	2015	2016	2017 - 2023	2024*	2025
Highest Age Attained By the Child During the Fiscal Year	18+										
	17										
	16										
	15										
	14										
	13										
	12										
	11										
	10										
	9										
	8										
	7										
	6										
	5										
	4										
	3										
	2										
1											
0											

Shaded area = Applicable Child Revised Eligibility Criteria Apply (473(a)(2)(A)(ii))

Unshaded Area = Not an Applicable Child-Preexisting Eligibility Criteria Apply (473(a)(2)(A)(i))

*The applicable child requirements apply to a child of any age for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024.

