

## FUNDING DETERMINATIONS

Title IV-E is a fund source which requires all applicable federal regulations be followed for use of the funds. Other fund sources such as state ward board and care, county child care funds, and limited term and emergency foster care funding are listed in [FOM 901-8, Fund Sources](#).

**Note:** Information regarding funding determinations for the Young Adult Voluntary Foster Care (YAVFC) Program is found in [FOM 722-16, Young Adult Voluntary Foster Care](#).

The child welfare funding specialist (CWFS) makes a determination regarding the appropriate fund source for out-of-home placements at the time the youth is referred for care and supervision by Michigan Department of Health and Human Services (MDHHS) regardless of actual placement; see [FOM 722-01, Court Ordered Placements](#).

Initial title IV-E determinations and title IV-E reimbursability determinations are to be completed using the electronic case management system. If the youth is in their own home at the time of acceptance, an initial title IV-E determination or title IV-E reimbursability determination is not necessary until the youth is placed in out-of-home care.

No new initial title IV-E determination is required for a disrupted adoption prior to finalization. If a child is removed from an adoptive home after finalization, a new initial title IV-E determination is required.

A new initial title IV-E determination is required if a guardianship is terminated after it has been finalized. The abuse/neglect court case must also be terminated prior to a new initial being required.

Title IV-E reimbursability determinations for youth in out-of-home placements are to be completed annually, or more frequently if MDHHS becomes aware of a change which may affect title IV-E reimbursability.

The electronic case management system maintains an historical record of each determination. Individual determinations must be signed and uploaded into the electronic case management system in the documents hyperlink on the initial funding determination.

## Categories of Title IV-E

There are two types of title IV-E categories: title IV-E eligible and title IV-E reimbursable. Both must occur concurrently before title IV-E payments can be issued. Definitions of the two types of title IV-E categories are:

- **Title IV-E eligible** - Initial title IV-E eligibility is determined based on information related to the child and removal household when the child is initially removed from their home. Specific eligibility requirements are detailed within this manual item.
- **Title IV-E reimbursable** - Federal financial participation (FFP) is available for a child who meets all title IV-E eligibility requirements. A child's reimbursability status can change based on specific factors. Some of these factors include the child's placement and the MDHHS having sole care and custody.

## PLACEMENT/ REMOVAL EPISODE

A new initial determination of title IV-E eligibility must be completed for each new out-of-home placement episode regardless of whether a new petition is filed with the court.

### An out-of-home placement episode begins:

When a child moves from their own home living arrangement of:

- Parental home. See *Child of a Youth Parent* section for details on this population.
- Legal guardian.
- Out-of-state parent.

Please note an out-of-home placement episode also begins when a child moves to an out-of-home living arrangement, or when a case is opened with the living arrangement noted as out-of-home.

A placement episode may also begin when a youth is removed from their home for the purposes of detention through a delinquency (DL) case. The youth may then enter a foster care placement through an abuse/neglect (NA) case. In this circumstance, in re Ayotte, 326 Mich App 483 (2018) may apply.

Email the Federal Compliance Division (FCD) at [MDHHS-federalcompliance@michigan.gov](mailto:MDHHS-federalcompliance@michigan.gov) for a specific case review and assistance.

**Example:** The child is removed on 6/1 through a delinquency court order and placed into detention. On 6/15 an abuse/neglect removal order is issued, and the child is placed in foster care. The 6/15 order may start a new removal episode and require a new initial title IV-E funding determination even if the child did not return home.

**The placement episode ends when the:**

- Child is returned home through a court order. A child does not change to a parental home placement unless and until the court orders the child returned to the parent's care and custody. This does not include when a parent merely resides in the same home as the child.
- Child is placed with the non-custodial legal parent by the court.
- Child is placed with a legal guardian.
- Child is discharged from court wardship regardless of the child's placement.
- Child's adoption is finalized (foster care payments cannot be made after the order placing the child for adoption has been signed).

**Example:** The child is placed with the paternal grandfather. The legal father moves into the home on 6/1. The court later issues an order on 10/1 ordering the child returned to the parent. The parental home placement is entered on 10/1 when the parent is legally responsible for the child's care.

Payments cannot be made from title IV-E on or after the date the court order is signed. Any payments needed beyond that date must be made from the child's alternate fund source.

**Example:** The court order returning the child to the parental home was signed on 12/1 but not received until 12/5. The placement still needs to be paid for those dates, but the payments cannot be made from title IV-E. Any payments made on or after the date the order is signed must be made from the child's alternate fund source.

**Child of a Youth  
Parent**

The placement episode does **not** end when the foster care program type is closed in the electronic case management system because the child is:

- Placed for adoption, but the adoption is not finalized.
- Transferred from foster care to juvenile justice.
- Transferred from juvenile justice to foster care.

A different process is identified for the child of a youth parent based on the child's court involvement.

**Scenario 1: A court order was signed that the child was removed from the youth parent's care and the responsibility is with MDHHS for placement and supervision.**

Regardless of the child's placement, an initial funding determination must be completed to assess the child's title IV-E eligibility independent from their youth parent.

**Scenario 2: The child does not have a court order placing them with MDHHS for placement and supervision and remains in the care of their youth parent.**

The child does not have an independent initial funding determination since the child is not removed from the youth parent. The child does not have their own case in the electronic case management system.

**TITLE IV-E FUNDING  
DETERMINATIONS**

Title IV-E is only a fund source. To be eligible for payment under title IV-E, children must, by Family Court or Tribal Court order, be under MDHHS supervision for placement and care or committed to MDHHS.

All youth are to be screened for title IV-E eligibility at the time of acceptance. Even though an initial placement may be in a placement where title IV-E cannot be paid, such as unlicensed relatives, detention, or training school reimbursability may exist in subsequent placements.

If a youth has been initially determined not eligible for title IV-E funding (based on ineligibility of the family for the former Aid to Families with Dependent Children (AFDC) program or the judicial

determinations do not meet the time requirements; see *required judicial findings* in this item), the child will never be eligible for title IV-E funding while in this placement episode.

Voluntarily released children may be eligible for title IV-E funding if there is a court order terminating parental rights and making MDHHS responsible for the child's placement and care and if all other eligibility requirements are met.

Secondarily released children cannot be title IV-E eligible. A secondary release is defined as a release of a child to MDHHS by a placement agency foster care (PAFC) provider in which the child was previously released or committed to the placement agency foster care (PAFC) provider. Upon a secondary release, the child becomes a state ward.

Youth committed to the department **only** under Act 150 by circuit courts following adult criminal proceedings are not eligible for title IV-E funding.

#### Required Timeframes

Court orders must be entered into the electronic case management system within **10** calendar days of receipt by MDHHS. The order terminating parental rights must be entered into the electronic case management system no later than **five** business days of receipt by MDHHS.

Initial funding determinations must be completed within **30** calendar days from the MDHHS acceptance date.

Reimbursability determinations must be completed no more than **10** calendar days beyond the effective date of the determination.

#### TITLE IV-E ELIGIBILITY BEGIN DATE

Title IV-E eligibility may begin on the first day of placement in the month in which all eligibility criteria are met. Eligibility criteria which must be met includes:

- Required judicial determinations of reasonable efforts and contrary to the welfare on a signed court order.

- AFDC eligibility, including establishment of financial need and deprivation.
- Living with and removed from the same specified relative.
- A child must be under the age of 18, unless enrolled full-time in high school or an equivalent vocational or technical course and can reasonably be expected to complete the course prior to their nineteenth birthday; see *Title IV-E Age Requirements and Exceptions* section in this policy item.
- Legal jurisdiction, by way of a valid, signed court order from a family or tribal court that gives MDHHS placement and care responsibilities.

### Acceptance Date

Title IV-E funding must not be authorized prior to the acceptance date. The department cannot assume financial responsibility for a youth until it is in receipt of a court order delegating legal authority for a youth to the department. Once the court order is received, the acceptance date is the date the court order is signed by the judge or referee; see [FOM 722-01, Court Ordered Placements](#), and [JJM 230, Juvenile Justice Service Plans](#).

### TITLE IV-E ELIGIBILITY REQUIREMENTS

Title IV-E eligibility begins with a determination of the child and family's ability to qualify for the former Aid to Families with Dependent Children (AFDC) program under the relevant portions of the Title IV-A State Plan which was in effect on July 16, 1996. The child and family's eligibility for the current Family Independence Program (FIP) cash assistance grant **does not** equate to automatic eligibility for title IV-E funds.

### US Citizenship/ Qualified Non- citizen Status

Receipt of title IV-E funds is limited to U.S. citizens and qualified non-citizens. If it is determined that a child is not a U.S citizen or a qualified non-citizen at the time of removal, **the child is not title IV-E eligible** and the procedures outlined in [FOM 902-05, Title IV-E Funding Denial or Cancellation](#) must be followed.

**Qualified Non-  
citizen Status**

A qualified non-citizen is defined as one of the following:

- A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA).
- A non-citizen who is granted asylum under section 208 of the INA.
- A refugee who is admitted to the U.S. under section 207 of the INA.
- A non-citizen who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year.
- A non-citizen whose deportation is being withheld under section 243(h) or section 241(b)(3) of the INA.
- A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA.
- A Cuban or Haitian entrant.
- A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a U.S. citizen or legal permanent resident spouse or parent, or by a member of the spouse or parent's family living in the same household or is the parent or child of a battered person.
- A Human trafficking victim.

**Not Qualified Non-  
citizen**

Examples of persons who are **not qualified non-citizens** include, but are not limited to, undocumented non-citizens and non-citizens legally admitted on a temporary basis for work, study, or pleasure.

**U.S. Citizens**

The following persons are considered U.S. citizens or have an acceptable status for benefits:

- U.S. citizen, including persons born in Puerto Rico.

- Persons born in Canada who are at least 50 percent American Indian.
- Members of a federally acknowledged American Indian tribe.
- Permanent resident non-citizen with class code RE or AS on the 1-551 (former refugee or asylee).
- A qualified dependent non-citizen child of a qualified military non-citizen:
  - A qualified military non-citizen is a qualified non-citizen on active duty in, or veteran honorably discharged from, the U.S. Armed Forces.
  - A dependent child is a child claimed as a dependent on the qualified military non-citizen's federal income tax return.

## VERIFICATION/ DOCUMENTATION PROCEDURES

The worker must verify citizenship status or qualified non-citizen status for all children in foster care. Eligibility for title IV-E funding requires U.S. citizenship or qualified non-citizen status of the child. The receipt of benefits is based upon the child's status and not on the parent's status. See [FOM 722-06K, Services for Families Who Are Not US Citizens](#).

A worker should attempt to determine a child's place of birth when first meeting with the parent(s) to collect information. If the child was not born in the U.S., the worker should inquire of the parent whether the child is a citizen. If the parent responds that the child is not a citizen, the worker should request that the parent provide documentation regarding non-citizen status. If the parent refuses to provide documentation, the child is **not** title IV-E eligible.

The worker must make a copy of both sides of any verification document(s) upload to the electronic case management system in the initial funding determination and file the copy in the case file; see [FOM 722-05, Case Documentation](#) and [JJM 255, Case Record Requirements](#).

A child's citizenship or qualified non-citizen status must be verified for a child to be determined as title IV-E eligible. If the documentation is not located to verify the child's citizenship or



qualified non-citizen status, the child is not title IV-E eligible. If the documentation is located later, the initial funding determination can be redetermined as long as the child's citizenship or qualified non-citizen status was effective on the removal date.

### **Verifying U.S. Citizenship**

Documents that verify U.S. citizenship status are:

- U.S. birth certificate.
- Adoption finalization papers.
- U.S. passport.
- Report of birth abroad of a U.S. Citizen, FS-240.
- Certificate of birth, FS-545, issued by a foreign service post or Certification of Report of Birth, DS-1350, issued by the Department of State.
- Certificate of Naturalization, N-550 or N-570.
- Certificate of Citizenship, N-560 or N-561, for children who derive their citizenship through a parent.
- A statement provided by a U.S. Consular officer certifying that the individual is a U.S. citizen.
- American Indian Card (I-872) with a classification code "KIC" and a statement on the back identifying U.S. citizenship members of the Texas Band of Kickapoos living near the U.S. Mexican border.
- Human trafficking victim eligibility letter from the Administration of Children and Families.

### **Verifying Qualified Non-citizen Status**

Documentation verifying qualified non-citizen status:

- For permanent resident non-citizen status:
  - Non-citizen Registration Receipt Card, I-151 or I-551.
  - Unexpired Reentry Permit, I-327.

- Arrival-Departure Record, 1-94 stamped Processed for I-551 Temporary Evidence of Lawful Admission for Permanent Residence.
- For American Indians who enter the U.S. from Canada:
  - I-151, I-551 or I-94 with code S13.
  - Other INS documentation.
  - Birth record or affidavit from a tribal official indicating the person is at least 50 percent American Indian.

**Note:** Such persons are **not** required to register with the U.S. Citizenship and Immigration Services (USCIS).

- For refugee, asylee or parolee status, an I-94 annotated with INA section 207, 208 or 212(d)(5); see BEM 225, Citizenship/Non-citizen Status for information on completing the DHS-940.
- For Cuban/Haitian Entrant status:
  - I-94 indicating admission into the U.S. from Cuba or Haiti, annotated with Cuban/Haitian Entrant (Status Pending), Parole, 212(d)(5), or Form I-589 Filed. I-94 indicating admission into the U.S. from Cuba or Haiti **and** a letter or notice from INS indicating ongoing (**not** final) deportation, exclusion or removal proceedings.
  - I-551 with code CU6, CU7 or CH6.
- For status as a non-citizen whose deportation (removal) is withheld: a court order or letter from an immigration judge stating that deportation (removal) is withheld per INA section 241(b)(3) or 243(h).
- For status as a non-citizen granted conditional entry: I-94 showing admission under 203(a)(7).
- For any non-citizen status:
  - G-641 annotated at the bottom by an USCIS representative.
  - Information from the USCIS Information Unit, 11411 East Jefferson Avenue, Detroit, Michigan 48214.

**Note:** Non-citizen status may also be checked online by going to the USCIS website at [www.uscis.gov](http://www.uscis.gov).

See [BEM 225](#), Exhibit III, U.S. State Department Documents, U.S. Citizenship and Immigration Services (USCIS) documents for more information on the above mentioned documents.

**Note:** If a worker determines that a child is title IV-E ineligible because the child's presence in the U.S. is unlawful, the worker must give the information to the supervisor; see [BEM 225](#), Notification to USCIS. Workers are not to contact the USCIS directly regarding the unlawful presence within the U.S. The local office supervisor must consult the Foster Care or Juvenile Justice Program Office regarding the notification to USCIS.

## FORMER AFDC PROGRAM ELIGIBILITY REQUIREMENTS

The child must meet all eligibility requirements for the former AFDC program, except that of living with a specified relative, in the month in which the court action that led to the child's removal occurred. A court action is defined as a signed court order that removes the child from their home.

The eligibility requirements include age, deprivation, and need. A reasonable effort to reconstruct the elements of eligibility at the time the removal order is expected.

The following children are not former AFDC eligible as there are no facts upon which to base former AFDC program eligibility:

- Children, whose parents, or other relatives cannot be identified.
- Children whose parents will not cooperate in the eligibility determination process and MDHHS has no income or asset information on record.

**Note:** If a child is determined not title IV-E eligible due to their parents refusing to cooperate, MDHHS should continue to engage the parents to obtain the needed financial information for the removal month. The initial funding determination can be created in error and redetermined if the parents are willing to provide the removal month financial information at a later date.

### Living with Specified Relative

The child must have lived with a specified relative at the time of, or within six months prior to, the initiation of court action to meet this

title IV-E requirement. A specified relative for purposes of an initial title IV-E eligibility determination is within the fifth degree of kinship to the child by blood or adoption. The specified relative can also be the spouse of a person within the fifth degree of kinship even if the marriage ended by death or divorce. These relationships are not severed by the termination of parental rights.

**Note:** This list of specified relatives differs from other section of policy and is used only for the funding determination purposes.

1st Degree.

- Mother or father.

2nd Degree.

- Brother or sister.
- Grandfather or grandmother.

3rd Degree.

- Uncle or aunt.
- Nephew or niece.
- Great-grandfather or great-grandmother.

4th Degree.

- Great-uncle or great-aunt.
- First cousin.
- Great-great-grandfather or great-great-grandmother.

5th Degree.

- Great-great uncle or great-great aunt.
- First cousin once removed.
- Great-great-great grandfather or great-great-great-grandmother.

**Note:** The child must have lived with the specified relative with the intent to remain in the relative's home. An overnight visit does not meet this **living with a specified relative** standard.

## Removal Home for Title IV-E Eligibility

When determining title IV-E eligibility, the first step in the process is to identify the child's removal home. Correctly identifying the removal home is critical.

The following criteria must be considered when identifying the removal home:

- **The removal home (parent or specified relative) is the home for which the court makes the judicial finding that it is contrary to the welfare for the child to remain. In almost all cases this would be the parent's home, even if the child is physically removed from a different home.**
- Although the child may have been out of the parent/specified relative home at the time court action was initiated, the child must have lived in the removal home at some point during the six months preceding the court action to remove the child.
- If the child is physically removed from a relative's home, and judicially removed from a parent, the parent's home is the removal home if the child lived with the parent in the prior six months. **The child is not title IV-E eligible if the child has lived with the relative more than six months.**
- For children under six months of age, lived with is also interpreted as born to in reference to the removal home requirement even if the child has not lived with the mother since birth.

## Constructive Removal

The child can be considered removed when a constructive removal (non-physical removal) takes place. A constructive removal occurs when **all** of the following apply:

- The child resides with a non-parent interim caretaker who is **not** the legal custodian or guardian of the child.
- The child is court-ordered into the custody of the department.
- The child remains in the home of the caretaker who serves as the out-of-home care provider to the child after the department is awarded custody.

- The child lived with the parent or stepparent that the contrary to the welfare determination was made against within the past six months, prior to court jurisdiction.

## Deprivation

The situation of the child in relationship to the parent or relative home from which the child was removed will determine eligibility. Deprivation **must exist** initially to meet the title IV-E eligibility requirements. Deprivation must be met at the time of the child's removal from the home. Deprivation may not be based on household circumstances that occur after a child's removal.

Previously, redeterminations were required to verify that the child continued to meet the AFDC standards as established in the 1996 policy for deprivation of parental care and financial need. Effective April 1, 2010, the federal requirement for title IV-E redeterminations of a child's AFDC eligibility has been eliminated. If a child was found to have AFDC deprivation initially the child's eligibility does not need to be redetermined.

**Note:** Title IV-E funds cannot be claimed for children who were not eligible due to a loss of deprivation at redetermination prior to April 1, 2010. Title IV-E eligibility may be reinstated for the child as of April 1, 2010, providing all other eligibility criteria are met.

Reasons for deprivation are:

- Absence of a parent from the removal home; such as in the circumstances of separation, divorce, death, or removal from a single parent household.
  - A child is considered to be removed from a single parent household when there is only one legal parent in the home at the time of removal.
  - A legal father is defined as:
    - A man married to the mother at any time from a child's conception to the child's birth, unless a court has determined that the child was conceived or born during the marriage but is not the issue of the marriage.
    - A man who legally adopts the child.

- A man who by order of filiation or by judgement of paternity is judicially determined to be the father of the child.
- A man judicially determined to have parental rights. This does not include simply listing the father as legal on a court order. The father may be listed as legal on an order based on information available at the time of the petition but must be verified.
- A man whose paternity is established by the completion and filing of an Affidavit of Parentage in accordance with the provisions of the Acknowledgement of Parentage Act. The man and mother must sign the Affidavit of Parentage before a notary public appointed in Michigan. The affidavit must be filed at either the time of birth or during the child's lifetime with the state registrar/MDHHS.
- A man determined to be a legal father under the law of another state.
- A putative father is not considered a legal father to the child.
- If the mother and father have filed an Affidavit of Parentage with the Michigan Department of Health and Human Services, for title IV-E determination purposes only, it is the date the document is filed that is used to determine deprivation based on absent parent.

**Example:** A child is removed from the mother on June 3. The mother was living with the putative father. On June 6 the putative father becomes the legal father. Deprivation existed for the child because there was no legal father at the time of removal.

- Incapacity of a parent: defined as unemployable due to incapacity for 30 calendar days or longer. Workers cannot determine incapacity without documentation. Persons who are incapacitated may receive SSI or RSDI based upon their disability. If the parent receives RSDI the disability must be documented. If the parent is not receiving SSI or RSDI, a doctor's statement verifying that the parent is unable to work for at least 30 calendar days is necessary. A pending application for SSI is not sufficient. The documentation from a doctor submitted to apply for SSI can be used.

- Unemployment of a parent: defined as the parent who earned the greater amount of income in the previous 24-month period. A parent who is presently unemployed may **or** may not have unemployment as a deprivation factor.

To be considered the unemployed parent, that parent must have worked less than 100 hours in the calendar month of the removal, **and** meet one of the following three criteria:

- Receive unemployment benefits (UB).

**or**

- Received UB in the last 12-month period prior to the child's removal from the home.

**or**

- Worked at least six full quarters of the last three and one quarter years preceding the removal date. Document one and a half years of work history within the past 3 1/4 years in the electronic case management system.

### AFDC Income and Assets

The removal household determines whose income to use in determining the eligibility group. The same members used to determine the eligibility group are used in determining the group size. A member is not included in the eligibility group or group size if the member was receiving SSI during the removal month. The child's income and assets are always used in determinations unless the child received SSI for the removal month. A trust fund established for a child must not be considered as available property for that child unless it is designated and available to be used for their ordinary living expenses. The following are examples:

- For a child removed from the parent(s).
  - The gross earned income, net unearned income and assets of the child, **parent(s)**, stepparent(s), sibling(s) and stepsibling(s) under age 18 (or are age 18 and attending school and are expected to graduate by age 19), must be considered in the initial eligibility determination.



- Do not include the income and assets of the non-parent adult, putative father or living together partner. The non-parent adult, putative father, or living together partner are not counted in the group size.
- For a child physically removed from a specified relative (other than their parent):
  - The child has been with the relative less than six months.
  - Contrary to the welfare is found against the parent(s).
  - The AFDC eligibility is based on the gross earned income, net unearned income, and assets of the parent(s). See *For a child removed from the parent(s)* to determine who to include in the parent(s) household.
  - Sibling(s) and stepsibling(s) under age 18 (or are age 18 and attending school and are expected to graduate by age 19) must also be included if the youth were living with the parent(s) or the specified relative at the time of removal.
- For a child physically and judicially removed from a specified relative (other than their parent):
  - Contrary to the welfare is found against the relative.
  - Do not include the income and assets of the relative, the relative is not counted in the group size.
  - The AFDC eligibility is based on the gross earned income, net unearned income, and assets of the child(ren).
  - Sibling(s) and stepsibling(s) under age 18 (or are age 18 and attending school and are expected to graduate by age 19) must also be included if the youth were also living with the specified relative at the time of removal.
- For a child removed from an unrelated guardian:
  - When the child lived with an unrelated guardian for **more than six months** prior to removal, the child is **not** eligible for title IV-E funding.
  - When the child lived with an unrelated guardian for **less than six months**, contrary to the welfare must be against the parent(s) as the removal home and the gross earned

income, net unearned income and assets of the parent(s) must be counted for AFDC eligibility. See bullet above - For a child removed from parent(s) - to determine who to include in the parent(s) household.

**Note:** Adoption assistance is considered unearned income and must be budgeted within the electronic case management system if the adoption has been finalized. Only the first \$76.00 of the assistance, per child, is considered as income.

The property of the eligibility group members, the child, parent(s), stepparent(s), and siblings under age 18 (or are age 18 and attending school and are expected to graduate by age 19), must be considered in the initial eligibility determination.

## Deductions

The electronic case management system title IV-E determination process automatically applies the following income and asset deductions:

- Income disregards: additional income deductions are applied if the eligibility group would have qualified for the former AFDC program by meeting the 185% needs standard.
- Childcare expenses: enter the amount paid for the actual childcare expenses, not the MDHHS allowable amount.
- Child support: enter the amount of child support paid, not the ordered amount, by the parent for a child who is not living within the removal home.

## Assets

Combined assets for all eligibility group members over \$10,000 will determine the child as not title IV-E eligible.

- The household's primary residence is exempted as an asset. If anyone in the eligibility group owns multiple houses, contact FCD for assistance. There are additional details within the 1996 policy that may need to be applied based on the case specifics.
- Exclude one vehicle owned by the asset group. If there are multiple vehicles, exclude the one with the highest equity value. Only the equity value, the portion of the vehicle that is owned, is calculated. For example, the vehicle is worth

\$10,000 but \$5,000 is still owed. The vehicle is an asset worth only \$5,000.

## LEGAL JURISDICTION

As a condition for title IV-E funding, court orders must make MDHHS solely responsible for the child's placement and care.

- Court orders do not have to contain the exact words placement and care; substitute wording such as care and supervision, or placement and supervision may be used without affecting title IV-E funding eligibility.
- An order that includes the confirmation of prior orders or states that prior orders are affirmed may be used if a prior order made MDHHS solely responsible for the child's placement and care.
- Jurisdiction of the eligible child must have been taken under either the neglect or delinquency section of the Juvenile Code (but not under any adult criminal code or proceedings).
- A court order giving the MDHHS responsibility for placement and care acts as the application for title IV-E. For youth released under 1974 PA 296, the order terminating rights meets this requirement as long as MDHHS is given responsibility for placement and care.
- Orders for state wards must include the words: committed to the Michigan Department of Health and Human Services. The public act under which the youth is committed (such as the Youth Rehabilitation Services Act, 1974 PA 150 or the Michigan Children's Institute (MCI) Act, 1935 PA 220) must be identified on the commitment order. Orders for temporary or permanent court wards must contain the words: placed with the Michigan Department of Health and Human Services for placement and care; see [MCL 400.55\(h\)](#).
- A child is a dual ward when there are concurrent abuse/neglect and delinquency cases. Any youth who has both abuse/neglect and delinquency cases is a dual ward, whether or not MDHHS has supervision of the delinquency side of the case. This is regardless of the youth's commitment under Act 150. This does not include youth on a consent calendar or voluntary, informal probation.

**Note:** To qualify for title IV-E funding, MDHHS must be solely responsible for a dual ward's placement and care. If the delinquency court supervises the youth's delinquency case **and** assumes placement and care responsibilities, then the youth is not title IV-E eligible.

- Orders issued by tribal courts for American Indian children have the same validity as state court orders. These orders must make MDHHS responsible for placement and care. Orders which stipulate that placement choices be limited to foster homes on the reservation are acceptable. Orders which contain stipulations for co-supervision by a court or another agency do not meet the title IV-E federal requirements. Therefore, the child is not eligible for title IV-E funding as long as that order remains in effect.

### Court Ordered Placement Exception

The federal regulations contain an exception to allow a child to be title IV-E eligible when the court orders a placement if **all** of the following stipulations are followed:

- The court must provide notice for and hold a hearing to determine the best placement for the child.
- The court must hear relevant testimony and work with all parties, including MDHHS, to make an appropriate placement decision.
- The court must enter a detailed written order that explains how the court considered the department's recommendation and why the court directed a different placement.
- The court must provide a transcript of the court hearing if the order is not detailed and clear.
- All other title IV-E eligibility requirements must be satisfied in conjunction with the stipulations above.

**Note:** Best practice is for each court order to affirm the child's placement with MDHHS for care and supervision. The fact that a court order approves of, acknowledges, or agrees to, the MDHHS placement decision on the court order does not negate title IV-E eligibility for that youth.

## REQUIRED JUDICIAL FINDINGS

In order for a child to be title IV-E eligible the court order **must contain documentation of the evidence used by the court to make judicial findings**. Court orders may contain checkboxes for the finding, but the determinations must be explicit and made on a case-by-case basis. Other criteria include:

- Orders may reference the specific petition, court report or other reports available to the court as documentation used for these findings. Indicating "see attachment" without describing the attachment, does not meet the documentation requirement. Copies of the petition or reports referenced in the court order must be contained within the child's case file.
- If a worker's testimony is used to support the judicial findings, the court must either list the evidence used as a basis for the finding within the court order or attach a copy of the transcript to the court order. If the court order does not list the specific facts and only references that testimony was given, attach a copy of the relevant portions of the transcript. The entire transcript does not need to be attached to the court order.

**Note:** Only the written transcript can be used to support the court order. While viewing or listening to the hearing can assist in determining if a transcript is needed, the written transcript must be requested and attached to the court order if the finding is not clear.

- The court order may not only reference state law for these determinations.

### Continuation in The Home Is Contrary to The Child's Welfare Determination

Federal regulations require the court to make a contrary to the welfare or best interest determination **in the first signed court order prior to removing the child from his/her home** for title IV-E eligibility. The court order must coincide with removal of the child. This finding can be made on any court order, but some examples of the first court order removing the child from his/her home typically used include:

- JC 05b - Order to take child(ren) into protective custody (child protective proceedings).
- JC 05a - Order to apprehend and detain (delinquency proceedings/minor personal protection).
- JC 11a - Order after preliminary hearing (child protective proceedings).
- JC 10 - Order after preliminary hearing/inquiry (delinquency/personal protection).
- JC 75 - Order following emergency removal hearing (child protection proceedings).

**Note:** The court can make the contrary to the welfare finding on any order as long as the determination is made.

The contrary to the welfare determination must also be made within the **first** court order prior to removing the child for each new placement episode, regardless of whether a new petition is filed or not. The child is **ineligible for the current placement episode** if the finding is not made in the first signed order for **each** placement episode. The determination must be explicit and made on a case-by-case basis.

**Note:** The order cannot be amended by a subsequent order, such as a nunc pro tunc order, which amends the original order to meet the contrary to the welfare finding requirement; see 45 C.F.R. Sec. 1356.21(d).

If a child cannot be located and is not physically removed at the time the court enters an order for removal, absent without legal permission (AWOLP) procedures are to be followed including the diligent search requirements; see [FOM 722-03A, Absent Without Legal Permission \(AWOLP\)](#) and [JJM 700, Juvenile Justice Assignment Unit Placement Process](#). The child's placement must be entered as AWOLP in the electronic case management system. If the AWOLP policies are followed and documented in the electronic and paper case file, the child can be title IV-E eligible.

**Note:** This AWOLP procedure is applicable to both juvenile justice and abuse/neglect wards even if the department was not supervising the case at the time of removal.

If the court makes the contrary to the welfare determination and the child is not removed from the removal home on the date of the

finding and the above AWOLP procedures are not followed, the child is not title IV-E eligible.

For juvenile justice wards, the court order may not reference the petition to document this finding because the petition often only details the youth's delinquent behavior. Other juvenile justice criteria include:

- A finding must be based on either:
  - The parents' actions that put the child at risk of harm.
  - The youth's threat to self, provided the court order details case specific documentation the court utilized for making the determination.
- A finding cannot be based on:
  - The youth's delinquent behavior.
  - Reference to removal is in society's best interest.
  - The youth is a threat to the community.

Both requirements must be met as a minimally acceptable standard for abuse/neglect wards:

- The child's correct name and date of birth must be on the court order.
- A box is checked that states/finds that it is contrary to the child's welfare to remain in his/her home, based on the specific petition, or MDHHS report, and/or testimony.

**Consent for the  
Removal/Verbal  
Approval Prior to  
11/1/2012**

Pursuant to [PSM 715-2, Removal and Placement of Children](#), MDHHS staff may not take any child into custody without a written order authorizing the specific action. If a child was removed prior to the signed court order, the child cannot be title IV-E eligible for that removal episode even if the department was not supervising the case at the time of removal.

Prior to November 1, 2012, in the event a judge or referee gave verbal approval/consent for removal and placement of a child, that verbal approval/consent would not jeopardize the child's potential title IV-E eligibility if all the following conditions were met:

- The verbal consent occurred during non-working hours (such as nights, weekends, or holidays) and emergencies.
- The first written order following the verbal consent must **reference the date of the removal**. The order must have been obtained within 24 hours or on the next business day following weekends and holidays.
- The first written order contained the findings of fact, on which the verbal consent was based, and includes the contrary to the welfare finding signed by a judge or referee.

### Reasonable Efforts Determinations

The supervising agency must document reasonable efforts to prevent removal and finalize a permanency plan except under defined circumstances; see [FOM 722-06, Case Planning](#).

In order to be eligible for title IV-E funding, the court must make two separate reasonable efforts determinations. These determinations must be:

- Explicit and made on a case-by-case basis.
- Contained in writing in the court order. It is not enough that efforts were described to the court. The court must actually make a determination that reasonable efforts were made.

### Reasonable Efforts to Prevent Removal

The determination of reasonable efforts to prevent removal from the home, must be documented on a court order within 60 calendar days of the child's removal from his/her home. The court order must be signed within 60 calendar days. Title IV-E eligibility cannot begin until the first day of placement in the month in which the reasonable efforts judicial determination has been made. If the finding is not made in the calendar month of removal, title IV-E eligibility begins the first day of the month in which all eligibility criteria are met, provided that it is within the 60 calendar day time frame. This finding must be made within 60 calendar days of **each** placement episode. The signature date on the order is the date used to determine the month eligibility begins.

As a minimally acceptable standard for abuse/neglect wards the court order must contain:



- The child's correct name and date of birth.
- A checked box indicating the court has found that reasonable efforts were made to prevent the removal of a child from the home, based on the petition, MDHHS report and/or testimony.

**The child's case is ineligible for title IV-E funding for the current placement episode if any of the following apply:**

- The judicial finding is not made on a signed court order within the 60 calendar day time frame.
- The court refuses to make this finding.
- The court finds that reasonable efforts to prevent removal were not made, except as noted in the *reasonable efforts not required* in this item.

**Note:** A subsequent order, such as a nunc pro tunc order, amending the original order cannot be used to establish compliance with this requirement; see 45 C.F.R. Sec. 1356.21(d). Relevant portions of the transcript may be used.

**Reasonable Efforts  
to Prevent  
Removal Not  
Required**

The child can be title IV-E eligible if the court makes a finding within 60 calendar days of removal that reasonable efforts to prevent removal were not required. Pursuant to [MCL 712A.18f\(4\)](#), reasonable efforts are not required to prevent the child's removal from home due to any of the following:

- Parent's conviction for murder of another child of the parent.
- Parent's conviction for voluntary manslaughter of another child of the parent.
- Parent's conviction for aiding or abetting, attempting, conspiring, or soliciting to commit the murder or voluntary manslaughter of another child of the parent.
- Parent's conviction for felony assault that resulted in serious bodily injury to the child or another child of the parent.

- The parental rights of the parent with respect to a sibling have been terminated involuntary.

Additionally, reasonable efforts to prevent removal are not required if the court has determined that a parent, guardian, custodian, or adult who resides for any length of time in the child's home has abused the child or a sibling of the child, and per Michigan law the abuse must include one or more of the following aggravated circumstances ([MCL 722.638](#)):

- Abandonment of a young child.
- Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
- Battering, torture, or other severe physical abuse.
- Loss or serious impairment of an organ or limb.
- Life threatening injury.
- Murder or attempted murder.
- The parent of the child failed to protect the child from one of the above.
- The parental rights of the parent with respect to a sibling have been terminated voluntarily following initiation of child protection proceedings and the prior proceeding involved abuse that included one or more of the circumstances listed above.

The court is to conduct a permanency planning hearing within 28 days following a judicial determination that reasonable efforts to prevent removal are not required. This 28-day hearing requirement does **not** affect title IV-E eligibility.

A judicial finding that reasonable efforts are not required cannot be made for juvenile justice wards.

### Reasonable Efforts to Finalize the Permanency Plan

The judicial determination, that the agency has made reasonable efforts to finalize the permanency plan is required within 12 months from the date the child entered foster care. According to federal

regulations the date the child is considered to have entered foster care is the earlier of a judicial finding of abuse or neglect (adjudication) or 60 calendar days from the date the child is physically or constructively removed from the home, whichever is sooner. This finding is required and applicable to **both** abuse/neglect and juvenile justice wards.

**Note:** Standard practice in Michigan is that the date the child is removed is considered the date the child entered foster care.

The determination must be based upon the permanency plan identified on the court order. Acceptable permanency plans that can be title IV-E reimbursable are:

- Reunification.
- Adoption.
- Guardianship.
- Permanent placement with a fit and willing relative.
- Placement in another planned permanent living arrangement (APPLA).

**Note:** APPLA is only acceptable as a permanency plan for youth age 16 and older.

This determination must also be made every 12 months from the date of the last finding as long as the child remains in out-of-home care.

This includes children placed in adoptive supervision placements in which the adoption has not been finalized when the permanency planning finding is due. The CY-460 report is sent to MDHHS agencies and the CY-463 is sent to placement agency foster care (PAFC) providers who are supervising adoptive placements that have been open for 10 months, 22 months, 34 months, etc.

The adoption placement agency (either MDHHS or the placement agency foster care (PAFC) provider) must file a motion for a reasonable efforts permanency planning review hearing with the court in which the adoption petition was filed. The motion must request a hearing to be held within 12 months of the last reasonable efforts to finalize the permanency plan finding.

After the permanency planning hearing, the adoption placement agency must send a copy of the PCA 321, Order of Adoption, or the PCA 351, Order Following Hearing on Review of Adoption Placement (Title IV-E Eligibility Compliance), to the MDHHS Adoption

and Guardianship Assistance office as documentation of the judicial review and determination.

The child is not reimbursable for title IV-E funding at the end of the month in which the judicial determination for reasonable efforts to finalize the permanency plan was required to be made and regains reimbursability on the first day of the month a determination is made.

The child is **not reimbursable** for title IV-E funding until an order is issued which contains this finding.

- A subsequent court order amending the previous order as a nunc pro tunc order, cannot be used to retroactively establish compliance with this requirement.
- The effective date for reinstatement of title IV-E eligibility based on this finding is the first day of the month in which a signed court order contains the reasonable efforts finding.

The 12-month time frame for the next required finding of reasonable efforts to finalize the permanency plan begins with the date the last finding was made.

**Note:** The signature date on the court order is the date used to determine the month reimbursability begins.

## CHILD CARING INSTITUTION (CCI) REQUIREMENTS

Title IV-E payments can be made for a child who meets all reimbursability criteria for a placement that lasts up to 14 days regardless of meeting qualified residential treatment program (QRTP) requirements. To continue payments from title IV-E for a placement 14 days or longer, the following requirements must be met:

- A setting specializing in providing prenatal, post-partum, or parenting supports for youth.
- Placement of a youth who is 18 or older being supervised in an independent living placement.
- A setting providing high-quality residential care and supportive services to children and youth who have been

found to be, or are at risk of becoming, sex trafficking victims.

- A certified QRTP placement meeting the assessment requirements.

An assessment must be completed for each child placed in a QRTP. A qualified individual (QI) must complete an assessment within either 30-calendar days of the referral or placement, whichever happens first. See [FOM 912, Residential Services: Caseworker Responsibilities](#) and [JJM 410, Placement Selection and Standards](#), for details regarding the assessment process. Title IV-E funds cannot be used for this youth's placement if the assessment is not completed within the 30-calendar day required time frame.

**Note:** Even if the placement already occurred and the timely assessment does not recommend continued placement in the QRTP, title IV-E can be used for the placement **only** if the child is moved within 30-calendar days from the date the assessment was completed. The court ordered exception process does not change the youth's title IV-E reimbursability. If the court orders the placement but the assessment did not recommend the QRTP placement, title IV-E payments cannot be made if the child remains in the placement for 30 or more calendar days following the completed assessment.

If the assessment determines that residential treatment is needed for the child, a motion must be filed with the court requesting approval of the placement. The court order must be entered into the electronic case management system before completing the reimbursability determination. The court order must be signed by the judge within 60-calendar days since the child's placement in the QRTP placement.

**Note:** If the court does not approve the placement for residential treatment, the child must be moved within the first 30-calendar days of the court order. The placement can be paid from title IV-E only if the child is moved by the 30th day from the date the court order was signed.

## REIMBURSABLE LIVING ARRANGEMENTS

The child's placement must meet title IV-E requirements to be considered reimbursable. This includes a child living in a fully licensed foster home, licensed private child caring institution which also meets all qualified residential treatment program (QRTP) requirements.

- MDHHS can utilize title IV-E funds for placement with private QRTP child caring institutions (residential care).
- If a court orders dual or co-supervision of the placement of the child by MDHHS staff and court or PAFC staff, the child is not reimbursable for title IV-E funds. This lack of reimbursability continues as long as that court order is in effect or until the first day of the month the title IV-E reimbursability can be reinstated.
- The effective date for reinstatement of title IV-E reimbursability based on this requirement is the first day of the month in which a signed court order removes the placement and/or supervision specifications; see Placement Specifications. The signature on the order is the date used to determine the month reimbursability begins.
- Children of youth parents who are placed in the same foster care setting as the parent(s) **may be** eligible for title IV-E funding.
  - **The court removed the child:** Even if the child and youth parent are placed in the same placement, the child is not reunified with their parent until a court order reunifies the family. The child has their own initial funding determination and reimbursability determinations. Payment is made on the child's case in the electronic case management system independent of the parent.
  - **The court did not remove the child:** The child remains in their youth parent's care. The child does not have an independent initial funding determination or reimbursability determination. Foster care payments for the child must be included in the

parent's foster care payment authorization as a ward child.

- Relatives and unrelated caregiver homes must be licensed as foster family homes for title IV-E funding to be paid.
  - If a child who is otherwise eligible for title IV-E has been placed in an unlicensed home, title IV-E funding cannot be used until the home is licensed. Once licensed, retroactive title IV-E payments can be made back to the effective date of the license as long as no FIP or foster care payments were issued for the same time period. If the provider received FIP payments, the provider can enter into a repay agreement for the FIP payments. See [FOM 903-8, Payments Requiring Special Processing](#), for these details. If another fund source was used, reconciliation action on a [DHS-587, Reconciliation Notice: Payment Made from Incorrect Fund Source](#), must be completed.

Title IV-E payments cannot be authorized for any period of time during completion of the licensing process.

- An administrative rate cannot be paid to the placement agency foster care (PAFC) provider using title IV-E funds when a child is placed with an unlicensed relative who is not pursuing licensure.

**Note:** Children living with unlicensed relatives are eligible to receive foster care payments.

Foster parents with a felony conviction for one of the following crimes **cannot** receive title IV-E payments:

- Child abuse/neglect.
- Spousal abuse.
- A crime against children (including pornography).
- A crime involving violence, rape, sexual assault, or homicide but not including other physical assault or battery.
- A conviction within the last five years for a physical assault, battery, or a drug related offense.

- Title IV-E funds cannot be paid to a foster family home or child caring institution with a numbered provisional license because of a licensing violation. This applies even though a corrective action plan may have been approved. Newly licensed foster family homes with the original provisional license are not included in this definition.
- An administrative rate to a placement agency foster care (PAFC) provider cannot be paid from title IV-E funds for a child placed in a foster home with a numbered provisional license for a licensing violation. Payment must be made from the child's alternate fund source.
- The status of the PAFC provider license does not affect title IV-E reimbursability.
- If a child is placed with an unqualified non-citizen foster parent (See U.S. Citizenship/Qualified Non-citizen Status), the unqualified non-citizen caregiver is eligible to receive title IV-E funds if:
  - The child is a U.S. citizen.
  - The child entered the U.S. on or after August 22, 1996, and the child has been a qualified non-citizen for at least five years.
  - The child is:
    - An asylee.
    - An non-citizen whose deportation is withheld.
    - A Cuban/Haitian entrant.

**Note:** Verification of citizenship or non-citizen status for foster parents is **only** required when MDHHS is placing a qualified non-citizen child who entered the U.S. on or after August 22, 1996.

- Independent living placements and PAFC supervised independent living situations are title IV-E reimbursable for youth age 18 and older effective 1/8/18.
- Detention facilities, training schools, county juvenile justice facilities or other facilities operated primarily for the detention of children who are determined to be delinquent are not title IV-E reimbursable. These facilities are not included within the definition of foster care; see [FOM 721, Foster Care](#).



- If a child is placed with an American Indian family living on a reservation, that family must be licensed or approved by the tribal council based on tribal criteria to be title IV-E reimbursable.

## TITLE IV-E AGE REQUIREMENTS AND EXCEPTIONS

**Age** - Title IV-E eligibility ends at age 18. An exception to this eligibility requirement may be granted if:

1. The child is a full-time student in a high school or in the equivalent level of vocational or technical training, and
2. Can be reasonably expected to complete high school or vocational or technical training before reaching age 19.

Eligibility continues as long as the youth stays in school/training and ends the last day of the month in which the youth completes the graduation or certificate requirements. If the youth is expected to complete the graduation requirements after age 19, title IV-E eligibility ends at age 18.

The MDHHS-5717, Title IV-E Age Determination is to be completed and uploaded to the age determination document hyperlink in the electronic case management system along with any supporting documentation.

***Exception:*** Youth who are in the Young Adult Voluntary Foster Care Program may be eligible for title IV-E funding past age 18; see [FOM 722-16, Young Adult Voluntary Foster Care](#).

## TITLE IV-E DOCUMENTATION AND VALIDATION

Title IV-E eligibility is to be documented and validated by the inclusion of the following items uploaded into the electronic case management system:

- A copy of the court order which commits the child to the MDHHS, or which gives MDHHS responsibility for placement and care of the child must be uploaded in the electronic case management system in the documents hyperlink for that court order.

- A copy of the petition that led to the child's removal from their home must be uploaded in the electronic case management system in the documents hyperlink for that petition.
- Copies of all abuse/neglect and relevant delinquency orders issued by the court must be uploaded in the electronic case management system in the documents hyperlink for that court order.
- Copies of all petitions, reports, and transcripts that the court has used as documentation in making the judicial findings of contrary to the welfare and reasonable efforts must be uploaded in the electronic case management system in the documents hyperlink for that petition or court order; see *Required Judicial Findings*.
- The electronic case management system maintains a historical record of each determination of appropriate fund source. Individual determinations must be signed and uploaded. Notes to clarify eligibility factors and issues discovered during the eligibility process must be written on the determinations. All documentation used to determine eligibility including the income and asset documentation, birth certificate or other citizenship documentation or qualified non-citizen documentation must be attached and uploaded in the electronic case management system in the documents hyperlink for that initial funding determination.

## CASE READING REQUIREMENTS

Comprehensive case reading practices must be utilized at all times to ensure compliance with federal regulations. On an ongoing basis, all cases determined to be title IV-E eligible, regardless of reimbursability status, must have a case read certified by a supervisor to ensure appropriate use of the funds. Case reads are to be completed using the [DHS-436, Title IV-E Case Read Instrument](#). Case reads for the YAVFC program are to be completed on the [MDHHS-5442, Young Adult Voluntary Foster Care \(YAVFC\) Case Read Tool](#).

**Note:** Best practice is for a full case read to be completed annually on title IV-E eligible cases and every six months for all YAVFC cases which would include a review of the payments. A case read is also recommended at case closure to ensure appropriate payments were made for the entirety of the child's case.

**PROBLEM COURT  
ORDERS**

Details on what steps are needed when a problem court order have been identified are found in [FOM 722-10, Court Review](#).

**NEGOTIATION WITH  
FEDERALLY  
RECOGNIZED  
AMERICAN INDIAN  
TRIBES**

Michigan negotiates in good faith with any federally-recognized American Indian tribe, tribal organization or tribal consortium in Michigan that requests to develop an agreement with MDHHS to administer all or part of the title IV-E program on behalf of 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 assistance payments and tribal access to resources for administration, training, and data collection under title IV-E.