

## 0101 Adoption Subsidy

### Policy Approval Clearance Record

<input checked="" type="checkbox"/> Statewide Policy <input type="checkbox"/> Administrative Policy <input type="checkbox"/> DCFS Rural Region Policy	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Modified Policy – Reformatted 11/2018 <input type="checkbox"/> This policy supersedes:
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Attorney General Representative Review:	
DCFS Deputy Administrator Approval	01/27/2012
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DMG Approved Revisions	01/27/2012

### STATEMENT OF PURPOSE

**Policy Statement and Purpose:** It is the policy of the Agencies providing Child Welfare Services to provide financial, medical, and social services assistance to adoptive parents to encourage and support the adoption of special-needs children.

The purpose of this policy is to expedite adoption of special-needs children, through timely negotiation and processing of subsidy applications.

### AUTHORITY

**Federal:** [Adoption and Safe Families Act P.L. 105-89](#); [Adoption Assistance and Child Welfare Act of 1980 P.L. 96-272](#); [Social Security Act Title XIX](#); [Social Security Act Title IV-E](#); [45 CFR 1356.40](#); [45 CFR 1356.41](#); [Federal Child Welfare Policy Manual](#)

**NAC:** [NAC 127.495](#); [NAC 127.500](#)

**NRS:** [NRS 127.186](#); [NRS 127.420](#)

**Other:** [Nevada Title IV-E State Plan](#); [Nevada Medicaid State Plan](#)

### DEFINITIONS

**Agreement Only:** An agreement between the agency and the adoptive parents, signed prior to finalization of the adoption, to provide financial and/or medical assistance, when the need arises, prior to the child's 18th birthday. Assistance is deferred until needed. To qualify, the child must meet all special-needs and Medicaid eligibility criteria at the time of adoption.

**Applicable Child:** A child who meets the "Special-Needs Eligibility Criteria" and has attained the applicable age, as indicated in section [473\(e\)\(1\)\(B\) of the Social Security Act](#); or a child who has been in foster care under the responsibility of the agency for 60 consecutive months; or a child who is a sibling of an applicable child by virtue of age or time in foster care and is placed in the same adoption home as his/her sibling.

**Child Placing Agency:** A nonprofit corporation organized pursuant to Chapter 82 of NRS and licensed by the Division to place children for adoption.

**Disability:** For purposes of a Supplemental Security Income (SSI) application for a disabled child means the child is blind; or has a medically determinable physical or mental condition which severely limits his/her functioning ability which can be expected to result in death, or has lasted or is expected to last for at least 12 months.

**Fair Hearing:** An administrative review by a public agency regarding decisions made by the agency. In relation to adoption, a hearing is conducted to review the correctness of an adoption subsidy decision.

**ICAMA:** The Interstate Compact on Adoption and Medical Assistance. The compact protects the interests of children who receive federally funded (Title IV-E) adoption assistance, when they move to another state. The compact ensures that they child receives medical assistance in the new state of residence.

**Monthly Maintenance Payment:** A payment made to the adoptive family for the care and support of the child. The payment amount is determined through negotiation between the adoptive family and the agency worker.

**Non-Recurring:** A one-time payment of up to \$250.00 which the agency may pay to an adoptive family to assist with expenses incurred to complete the adoption of a special-needs child.

**Social Summary:** A cumulative document, including attachments as needed, in which all information regarding a child's life is maintained therein to be shared with appropriate caregivers to ensure continuity of care. This information should include all known family history in addition to the current status of the child's physical and emotional health and well-being, strengths and needs.

**Subsidized Adoption Agreement:** A written agreement, between the agency and the prospective adoptive parents which specifies the nature and amount of any payments, services and medical assistance to be provided to the parents on behalf of the child.

**Title IV-E:** The Social Security Act Title IV Part E that provides federal funding support for child welfare services.

## **STANDARDS/PROCEDURES**

**Special-Needs Eligibility Criteria:** To qualify for assistance, the following requirements must be met regarding each child:

1. The child is in the custody of an Agency which provides Child Welfare Services, or a Nevada licensed child-placing agency ([NRS 127.186](#)), through termination of parental rights and/or relinquishment for a minimum of six (6) months; and
2. An effort was made to locate an appropriate adoptive home which could adopt the child without subsidy assistance ([Social Security Act – Section 473](#)). The child's record must contain documentation of all recruitment efforts made on the child's behalf. Additional searches for an adoptive home are not required when the special-needs child is being adopted by his current foster/adoptive parent or relative caretaker; and
3. The child meets the following requirements:
  - a. Has not yet reached the age of eighteen (18); and
  - b. Cannot or should not be returned to the home of his parents; and
  - c. Has the following specific factor(s) or condition(s) that make locating an adoptive placement resource difficult without recruitment, special services, or adoption assistance:
    - i. Is five (5) years of age or older;
    - ii. Is a member of a sibling group of two (2) or more children to be placed together; and at least one of the children is age three (3) years or older;
    - iii. Has a diagnosed medical, physical, emotional, or mental disability or documented history of abuse/neglect requiring treatment intervention;
    - iv. Has documented factors in his/her background that places a child at high risk for developing a condition requiring future treatment. Children meeting this criteria include those genetically related to persons who have heritable physical, mental, emotional, or behavioral conditions; prenatal substance abuse exposure; and other factors identified/determined by a treatment professional which will result in a child's need for treatment or special services; or
    - v. Is considered difficult to place because of race.
  - d. The placement meets all other placement criteria for adoption.

### **Title IV-E Eligibility:**

1. The Agency shall make efforts to establish Title IV-E eligibility for all children requiring adoption assistance. IV-E eligibility is required to qualify for federal reimbursement and to ensure that the child receives Medicaid from his or her new residence state, in the event the family relocates. If the child is not IV-E eligible and cannot receive Medicaid from the new state, the family will encounter difficulties locating medical providers willing to accept the Nevada Medicaid card.
2. **Eligibility staff must be consulted well before submitting the subsidy application to determine the child's Title IV-E eligibility status as an "applicable child" under new Federal guidelines based on the age of the child and/or time in foster care, established by Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). SSI applications must be filed on behalf of non IV-E disabled children to facilitate the IV-E eligibility process.**
3. If an eligible special-needs child does not meet the IV-E eligibility requirements, the subsidy may be paid from state funds. Licensed child placing agencies who apply for assistance on behalf of special-needs children in their custody, must assist in establishing the child's eligibility.

### **Application for Assistance:**

1. The Agency shall inform all prospective adoptive parents of children in Agency custody about the subsidy program; including special needs eligibility criteria and types of assistance available. In compliance with the Fostering Connections to Success and Increasing Adoptions Act of 2008 ([P.L. 110-351](#)), the Agency shall also inform prospective adoptive parents of the availability of a Federal Adoption Tax Credit and direct them to the Internal Revenue Service (IRS) and/or their tax preparer for more information. Applications for assistance are accepted from families adopting special-needs children in the custody of the Agency providing Child Welfare Services and Nevada licensed child-placing agencies. All applications must be processed and approved prior to finalization of the adoption.
2. If the adoptive parent declines application for assistance for an eligible child, the Agency shall obtain written confirmation from the family that they were informed of the subsidy program, were advised of the child's eligibility, and that they understand that applications and agreements for assistance must be approved prior to finalization of the adoption. The Notification of Adoption Subsidy Program form must be completed by the adoptive family to meet this requirement.

### **Types of Assistance Available:**

1. Assistance negotiated with the family may include:
  - a. Cash payments;
  - b. Medical assistance; and/or
  - c. Specific services to be covered by the Agency; or
  - d. An "agreement only" subsidy

The "agreement only" is for cases involving children considered at high risk for developing medical/other treatment related conditions, however, there is no immediate need for treatment or services. Cash assistance may be provided in the form of an ongoing monthly maintenance payment, based on the needs of the child and the circumstances of the adoptive parent; and/or payment on non-recurring expenses.

2. Monthly Maintenance Payments:
  - a. The monthly subsidy payment rate shall be determined by discussion and negotiation between the adoptive family and the agency worker. To establish the payment amount, agency staff shall consider factors which include but are not limited to the immediate needs of the child; the services required to meet the child's needs; service costs; the family's ability to provide the services; and other available community resources. The duration of the payment may be long term or time limited, depending on the needs of the child and family (as the child's needs or the circumstances of the family change, the payment amount may be renegotiated when the need arises or during the annual subsidy review process).

- b. The use of a means test is not permitted in determining the child's eligibility for assistance (Section 204A). The payment that is agreed upon should, when combined with the parent's resources and the resources of the child (SSA, SSI, etc.) meet the child's needs. Medicaid, private insurance, public education, and other community resources shall be considered as resources for the child and family when negotiating the amount of assistance. **If the child is disabled, application for SSI must be made on his/her behalf.**
  - c. The payment amount is not based on a standard schedule, but upon the needs of the child and the circumstances of the family. Families with the same income or in similar circumstances will not necessarily need or agree on identical types or amounts of assistance.
  - d. The monthly payment rate negotiated with the adoptive family may not exceed the amount the child would have received if he/she had been in a family foster home. If a child resided in regular foster care, the adoption subsidy payment amount cannot exceed the regular foster care payment amount; or if the child resided in a treatment home, the amount of the adoption assistance payment may be negotiated up to the basic maintenance rate, and may include any additional rate setting payments approved by the Agency beyond the basic maintenance rate. Administrative costs cannot be included in the negotiated subsidy rate.
  - e. The Adoption Subsidy Negotiation Worksheet, the Special Needs and Extraordinary Needs Assessment forms will be used to document the child's special-needs, identify available resources, service cost, and how the amount of the subsidy payment amount was determined.
  - f. If the child resides in another state and that state's foster care rate is approved for payment on the child's behalf, the subsidy payment may be negotiated up to that amount. Written verification of that state's foster care payment rate is required.
  - g. Payment assistance requests, above the basic maintenance rate, to cover a child's predictive or anticipated needs, will be considered and renegotiated with the family at the time the service is needed. Documentation of the child's needs and the cost involved must be presented by the adoptive parents as part of the negotiation process. The rate requested cannot exceed the foster care rate the child would receive if residing in foster care.
  - h. Monthly subsidy payments are paid effective the date the adoption is finalized.
3. Application for Reimbursement of Nonrecurring Adoption Expenses:
- a. The Agency may pay certain non-recurring expenses for the adoption of a special-needs child if requested by the adoptive parent. This one-time payment may not exceed \$250.00 for each child. The child must meet the definition of special-needs, and the family must indicate that they cannot finalize the adoption without financial assistance. Reimbursement may cover legal fees directly related to finalizing the adoption; and other reasonable costs associated with facilitating and finalizing the adoption (fingerprinting, birth certificates, travel costs, home studies, etc.).
  - b. The child does not have to have been in the custody of a child-placing agency to be eligible for reimbursement under this section. Payment is limited to expenses not reimbursed through other sources, such as the adoptive parent's employer or the military.
  - c. The application and agreement approving the non-recurring benefit must be signed prior to finalization of the adoption. Payment is made when the agency receives proof of expenses and payment and the final order of adoption.
4. Medical Assistance: Children with adoption assistance agreements will be eligible for medical coverage under the following criteria:
- a. A child eligible for a Title IV-E subsidy is automatically eligible for Medicaid funding under the subsidy, regardless of the state of residence.
  - b. For non-Title IV-E subsidies, children are not automatically eligible for Medicaid and must meet the following eligibility criteria:
    - i. The child was receiving Medicaid, or prior to the subsidy, could have received Medicaid based on Title IV-E re-determination financial requirements; AND
    - ii. The child has a special need for medical or rehabilitative care at the time the subsidy agreement is entered into that would have precluded adoptive placement if medical coverage were not provided.
    - iii. If the child has a non-Title IV-E subsidy agreement in effect and medical assistance was not a part of that original agreement, and a special need arose after the subsidy agreement was in effect, the child could be eligible for Medicaid under a new request

- if there was a documented need for medical or rehabilitative care at the time the original subsidy agreement was entered into. If not, the child cannot be Medicaid eligible under an amended adoption subsidy agreement.
- c. Children with a non-Title IV-E agreement in effect, who are not eligible for Medicaid because they were not receiving Medicaid prior to the subsidy or were not eligible based on Title IV-E re-determination financial requirements at the time the subsidy agreement was entered into, will have medical coverage through the State funded medical program. The State funded medical card provides the same services as a Medicaid card and is subject to the same limitations.
  - d. Third party medical insurance; the agency worker shall discuss the child's eligibility for coverage under the adoptive parent's health insurance plan as a part of the subsidy negotiation process. If private health insurance is available at no additional cost to the adoptive family, it must be provided to the adoptive child (per Medicaid regulations).

**Subsidized Adoption Agreement:** Upon completion of the negotiation process and approval of the application, the Agency shall draft the subsidy agreement for the family's review and signature. At a minimum the agreement must specify:

- a. Names of the adoptive family;
- b. Names and date(s) of birth of the child(ren) to be adopted;
- c. The nature and amount of any payment, services and assistance to be provided, including non-recurring adoption expenses;
- d. That the agreement remains in effect regardless of the adoptive parent and/or child's state of residence;
- e. The child's eligibility for Title IV-E (if applicable), Title XX and Title XIX;
- f. The effective date and duration of the agreement;
- g. Conditions upon which the assistance can be terminated;
- h. The family may request administrative review or hearing if their request for assistance is denied, terminated or reduced; and
- i. That the agreement must be signed by all parties prior to finalization of the adoption.

**Subsidy Review Requirements:**

1. The subsidy must be reviewed at least annually or whenever circumstances change. Annual contact with the family is required to verify that the child remains in the home, and/or that the family continues to support the child; to verify that the assistance provided meets the child's needs; and to determine whether changes have occurred that would require changes in the subsidy benefit provided.
2. As part of the annual review process, Agencies which provide Child Welfare Services shall require the adoptive family to provide verification that any child for whom adoption assistance is provided, who has attained the age for compulsory school attendance, is enrolled or in the process of enrollment as a full-time elementary or secondary student in a school, an authorized independent study program, or is being home schooled consistent with state law. Alternatively, the adoptive family must verify that the child has completed secondary school or is incapable of attending school full time due to the medical condition of the child that is supported by regularly updated information from a physician.
3. If at the time of review or contact, the family requests a change in the amount of assistance provided due to a change in circumstances, the agency worker may renegotiate the assistance agreement. The amount cannot exceed the amount that would have been paid on behalf of the child if the child has still been in foster care. The Adoption Negotiation Worksheet, Special Needs/Extraordinary Needs Assessment forms will be used to document the change in the child's needs, available resources, and how the increased payment amount was determined.

**Criteria for Termination of Assistance:** Once signed and in effect, an adoption assistance agreement must be terminated under the following circumstances:

- a. The child has attained the age of eighteen (18) ([Social Security Act – Section 473; NRS 027.186](#)); or
- b. The Agency determines that the adoptive parent(s) are no longer legally responsible for support of the child (note: a parent is considered no longer legally responsible for the support

- of the child when parental rights have been terminated, or when the child becomes an emancipated minor, marries, enlists in the military, or dies); or
- c. The Agency determines that they adoptive parent(s) is/are no longer providing support for the child; or
  - d. The adoptive parent(s) indicate they no longer require a subsidy for the child.

**Interstate Medical Assistance for Children with a Nevada Subsidized Adoption:**

1. A child eligible for Title IV-E adoption assistance is eligible for Medicaid in the state in which he or she resides. The agreement must specify that the child is eligible for Medicaid services and the child would be categorically eligible for Medicaid in the state of residence.
2. However, a child who is not eligible for Title IV-E adoption assistance, but rather State funded adoption assistance and/or Medicaid, who moves to another state, is only eligible for Nevada Medicaid and would not be categorically eligible for Medicaid in the new state of residence. Nevada will continue to issue a Nevada Medicaid card to the child residing in the other state, unless the other state verifies (in writing) that their state provides categorical Medicaid coverage to all adopted children for whom there is an adoption assistance agreement. Some states provide Medicaid coverage to all adopted children with an adoption agreement regardless of whether the agreement is Title IV-E or not.
3. State and county eligibility staff and Deputy Compact Administrator for ICAMA process the referrals needed to ensure the child receives medical coverage in the new residence state.

**Fair Hearings:** Fair hearings may be requested by the parent if:

- a. Their initial application for assistance is denied;
- b. The subsidy payment is decreased without their approval;
- c. Their request for a change in payment level due to a change in the adoptive parent(s) circumstances is denied; or
- d. Assistance is denied, reduced or terminated and the family disagrees with the Agency's decision.

The right to a hearing and the method by which the parent may obtain the hearing shall be stated in writing and provided to the parent at the time of the denial, reduction, or termination of assistance is made.

**Post Finalization Applications for Adoption Subsidy:**

Title IV-E and State Funded (with medical assistance) Requests:

1. Federal regulations require that the adoption subsidy agreement be signed and in effect at the time of, or prior to, the final decree of adoption. However, if the adoptive parent(s) feel they have been wrongfully denied benefits on behalf of an adoptive child; they also have a right to a fair hearing.
2. Families may appeal the decision to deny their request through the fair hearing process. Federal policy permits the Agency to reverse the decision to deny subsidy after finalization if the hearing officer finds that the family was denied assistance or was unable to apply due to one or more of the following "extenuating circumstances":
  - a. Relevant facts regarding the child were known by the state agency or child-placing agency and not presented to the adoptive parent(s) prior to the finalization of the adoption;
  - b. Denial of assistance was based upon a means test of the adoptive family;
  - c. Adoptive family disagrees with the determination by the state that a child is ineligible for adoption assistance;
  - d. The Agency failed to advise potential adoptive parents about the availability of adoption assistance for special-needs children in foster care.
3. Adoptive parents must prove extenuating circumstances in a fair hearing. The child must meet the special-needs criteria in effect at the time of the finalization. The Agency will, upon request, assist the family by providing non-identifying information available from the closed adoption record. Federal

policy permits the fair hearing officer to make a determination based on the findings in the case record; and the written documentation submitted by the adoptive family and agency staff.

State funded financial assistance – **No** Medical Assistance Provided:

1. State funded post legal subsidy payments may be provided to adoptive parents to help cover basic and special-needs of children whose special-needs are not discovered prior to finalization of their adoption. Financial assistance is provided to preserve the child’s placement, avoid a return to foster care, and to ensure that treatment needs are met. Families may apply for assistance under the following categories:
  - a. A monthly maintenance stipend to cover the child’s day to day needs; or
  - b. One time or periodic payment(s) to cover specific services or treatment related to the child’s preexisting condition.

Eligibility Requirements:

1. Child was in custody of the Agency which provides Child Welfare Services or other licensed Nevada child-placing agency prior to finalization of the adoption; and
2. The child is determined to have special needs and the need for treatment/or payment assistance is related to a pre-adoptive condition; and
3. Child was not Title IV-E eligible at the time of adoption; and
4. Adoptive family did not previously decline subsidy assistance; and
5. The Agency determines that family failed to receive assistance based on factors stated in the Post Finalization Applications for Adoption Subsidy of this policy.

No fair hearing decision is required to access funding under this section.

**Timeline: N/A**

**Documentation:**

**Case File Documentation (paper)**

File Location	Data Required
<ul style="list-style-type: none"> <li>• The subsidy file must contain the following documentation to support initial and renewal requests for assistance:</li> </ul>	<ul style="list-style-type: none"> <li>• Adoption Home Study</li> <li>• Child’s Social Summary</li> <li>• Special needs assessment forms and documentation of the child’s need for treatment or medical care (if applicable)</li> <li>• Rate setting forms if the payment rate exceeds the basic foster care rate</li> <li>• Subsidy Negotiation Worksheet to support the negotiated payment amount</li> <li>• Notification of Adoption Subsidy Program form</li> <li>• Application for subsidy and supporting documentation</li> <li>• Determination of IV-E eligibility</li> <li>• Verification of child’s legal status (TPR/Relinquishment)</li> <li>• Subsidy Review Forms</li> </ul>

**UNITY Documentation (electronic)**

Applicable UNITY Screen	Data Required
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

**JURISDICTIONAL ACTION**

**Supervisory Responsibility: N/A**

## **STATE RESPONSIBILITIES**

The State will monitor compliance with this policy.

## **POLICY CROSS REFERENCE**

**Policies:** N/A

**History and Updates:** Original policy was approved 11/14/2005. This policy was reformatted on 02/20/2008, and there were approved revisions on 01/01/2009; 05/15/2009; and 01/27/2012 this policy supersedes 0101-052209 Adoption Subsidy with the effective date of 02/13/2012. The policy was reformatted as of 11/14/2018.

## **ATTACHMENTS**

FPO 0101A – Special Needs Assessment  
FPO 0101B – Extraordinary Special Needs Assessment  
FPO 0101C – Adoption Subsidy Negotiation Worksheet