

Please see the below message below from Dr. Jerry Milner, Associate Commissioner, Children's Bureau

March 18, 2020

Dear Child Welfare Leaders:

In light of the extraordinary circumstances related to the COVID-19 pandemic and nationwide public health emergency, we are writing to advise you of some adjustments that we hope will allow you to continue to serve the children and families with whom you work, while being mindful of and adhering to current public health guidelines. We recognize that the current situation presents significant challenges, and appreciate your continued commitment to the safety, health, and welfare of the children and families within your states and tribes.

Caseworker Visits

As you know, section 422(b)(17) of the Social Security Act (the Act) requires that caseworkers visit children in foster care on a monthly basis. The policy, as currently posted, prohibits using videoconferencing for the purpose of meeting that requirement, and requires that such visits must be held face-to-face. See Child Welfare Policy Manual (CWPM), §7.3, #8.

The current public health challenges and guidelines require a reconsideration of that policy. While it is imperative that caseworkers continue to ensure the well-being of children in care, that imperative must be balanced against the health of caseworkers, children in care, and all of the people with whom they come into contact. The monthly caseworker visit requirement remains in place, but we are modifying our policy to permit such visits to be conducted by videoconferencing in these current extraordinary circumstances. The amended CWPM question and answer will be sent out on the Children's Bureau list serves and updated online in the coming days.

Child and Family Services Review Program Improvement Plans

We remind states currently implementing a Program Improvement Plan (PIP) developed to address the results of a Child and Family Services Review (CFSR) of potential flexibilities available to adjust PIPs in the face of these challenges. Specifically, 45 CFR 1355.35(d)(3) gives The Administration for Children and Families (ACF) the authority to approve extensions of PIP deadlines, and 45 CFR 1355.35(e)(4) gives ACF the authority to renegotiate the terms and conditions of PIPs with states.

Consistent with 45 CFR 1355.35(d)(3), ACF may approve extensions of deadlines in a PIP of up to one year. The circumstances under which requests for extensions will be approved are expected to be rare, and the title IV-E agency must provide compelling documentation of the need for such an extension specific to these circumstances. Requests for extensions must be received by ACF at least 60 days prior to the affected completion date.

States and ACF may also jointly renegotiate the terms and conditions of the PIP in accordance with the requirements of 45 CFR 1355.35(e)(4). We remind states that a renegotiated plan must:

- Be designed to correct the areas of the state’s program determined not to be in substantial conformity and/or achieve a standard for the statewide data indicators that is acceptable to ACF;
- the amount of time needed to implement the provisions of the plan does not extend beyond three years from the date the original PIP was approved;
- the terms of the renegotiated plan are approved by ACF; and
- the Secretary approves any extensions beyond the two-year limit.

If a state has concerns about the implementation of their ongoing CFSR PIP, it should contact the relevant [ACF Regional Office](#) to discuss these concerns and possible actions to ensure the state remains in compliance with its PIP.

Title IV-E Eligibility Reviews

We recognize how much long term work is associated with an onsite Title IV-E Eligibility Review, as well as the ongoing preparation for reviews that are scheduled to occur in the immediate future. However, in light of current circumstances, and for the health and well-being of all prospective reviewers and the general public, we will be rescheduling some upcoming reviews. ACF’s Regional Offices will be in touch to partner with the relevant states to take appropriate steps.

Child Abuse and Neglect Investigations

We remind states that there are no federal requirements that govern the procedures for conducting investigations of alleged child abuse and neglect. Instead, states are required to adhere to their own protocols and timelines for contact, safety and risk assessments, and other investigation procedures. State and local child protective services agencies should follow the guidance of state and local public health officials with respect to conducting investigations at this time, including whether caseworkers should initiate in-person contact.

Other Legislative and Regulatory Flexibility

Absent Congressional action, the Department of Health and Human Services (HHS) is unable to waive or alter requirements that are delineated in the Act or in regulation, including the case review system requirements that are delineated at section §475(5) of the Act.

Although periodic reviews and permanency hearings are important protections for children in foster care, we have explained that the case review requirements are not a title IV-E eligibility requirement and, therefore, delays in conducting these activities will not adversely affect a child’s eligibility for title IV-E. See, for example, ACYF-CB-IM-05-06, accessible at: http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2005/im0506.htm.

Thank you for your continued efforts.

Jerry Milner
Associate Commissioner
Children’s Bureau