

6. Subsequent Order on Review for Need of Placement, if applicable;
 7. Review of Adoption Assistance Agreement and three year reviews of need for adoption assistance or any amendments of the original adoption assistance agreement;
 8. Adoption Assistance Title IV-E Eligibility Determination Form;
 9. Title IV-E Foster Care Eligibility Determination Form;
 10. Title IV-E Redetermination of Eligibility Determination Form(s);
 11. A copy of the Social Security Income Eligibility Notification;
 12. Petition to Adopt time and date-stamped by the court;
 13. Final Adoption Decree;
 14. Orders terminating parental rights;
 15. Appeal Petition of the termination and Final Order resolving appeal of the termination;
 16. Indian Child Welfare cases, if known tribal affiliation;
 17. Documentation of the child's special needs (7.306.4, A, 3, d, 1-5);
 18. Motion to court to expedite the date of the final hearing, if applicable.
- E. County departments providing adoption assistance to children from private non-profit adoption agencies or relatives shall maintain in a secure location at the county the records containing the adoption assistance information listed in subsection D, above.
- F. County departments providing a subsequent adoption assistance agreement to children whose previous adoption was dissolved shall maintain, in a secure location at the county department, the records containing the adoption assistance information listed in subsection D, above. Additional required information includes:
1. New documentation assessing and identifying the child's continuing special needs; and,
 2. All of the adoption assistance forms and documentation from the previous adoptive family.
- G. County departments providing an adoption assistance agreement to children who were in foster care with their teen parents shall maintain, in a secure location at the county department, the records containing the adoption assistance information listed in subsection D, above. Additional required information must include proof of foster care payment made that includes both the child and his/her teen parent.

7.306.4 ADOPTION ASSISTANCE SERVICES [Rev. eff. 12/1/12]

Colorado operates two adoption assistance programs: the Title IV-E program and the state and county-only (non-Title IV-E) program.

- A. Applicable to both programs:

1. The federal government participates in adoption assistance agreements on behalf of children who meet the eligibility criteria for the Title IV-E adoption assistance program.
2. The state and county participate in adoption assistance agreements on behalf of children who are not eligible for the Title IV-E program.
3. Adoption assistance is a program that provides assistance to adoptive parent(s) in certain defined and limited ways to provide for the needs of an eligible adopted child. Adoption assistance is intended to help or remove financial or other barriers to the adoption of Colorado children with special needs by providing assistance to the parent(s) in caring for and raising the child.
 - a. The county department may make adoption assistance payments and/or provide Medicaid or medical assistance at the time of adoptive placement, continue them after the adoption has been finalized and continue them until the adopted child has reached the age of eighteen (18), or the age of twenty-one (21) years when the county department has determined that the child has a developmental or physical disability which warrants continuance of assistance.
 - b. The determination for expiration of the agreement must be made and documented in the original negotiation and noted in the original paperwork for the adoption assistance agreement.
 - c. The county department must determine that in each case a reasonable, but unsuccessful, effort to place the child for adoption has been made before negotiating adoption assistance, unless the best interests of the child would not be served by such an effort.
 - 1) Where appropriate, the current caregiver will be given priority as the prospective adoptive family. Reasonable effort requires listing with the Colorado Adoption Resource Registry and may include presentation in the media and consultation with the state.
 - 2) The only exception to this requirement is in situations where it would be against the best interests of the child, due to such factors as the existence of significant emotional ties with the prospective adoptive parents while in their care as a foster child, or adoption by a relative (in keeping with the statutory emphasis on the placement of children with relatives).
 - d. There exists a specific factor or condition (special need) to conclude that the child cannot be adopted without providing adoption assistance or medical assistance. A "special need" is one or more of the following special, unusual, or significant factors that act as a barrier to the child's adoption:
 - 1) Physical disability (such as hearing, vision, or physical impairment; neurological conditions; disfiguring defects; and, heart defects).
 - 2) Mental disability (such as developmental delay or mental retardation, perceptual or speech/language disability, or a metabolic disorder).
 - 3) Developmental disability resulting in educational delays or significant learning processing difficulties.

- 4) Educational disability that qualifies for section 504 of the rehabilitation act of 1973 or special education services.
 - 5) Emotional disturbance (such as post-traumatic stress disorder, bi-polar disorder and other diagnoses).
 - 6) Hereditary factors that have been documented by a physician or psychologist.
 - 7) High risk children (such as HIV-positive, drug-exposed, or alcohol-exposed in utero).
 - 8) Other conditions that act as a serious barrier to the child's adoption. Conditions may include, but are not limited to, a healthy child over the age of seven or a sibling group that should remain intact and medical conditions likely to require further treatment.
 - 9) Ethnic background or membership in a minority group which may be difficult to place.
- e. The county department shall not use an income eligibility requirement (income means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance.
- f. Families applying for adoption of a child with special needs must be informed of the adoption assistance program. The particular agreement that is negotiated shall be based on the child's need and the family's circumstances.
- g. Available public programs for which the child is eligible shall be used first to address the child's needs before an adoption assistance agreement is negotiated.
- h. The county department may authorize the following types of adoption assistance agreements:
- 1) "Long-Term Adoption Assistance Agreement" means to partially meet a child's daily needs on an indefinite basis. A long-term agreement is made when the family's financial situation precludes adoption and is unlikely to change or when a child's needs take an excessive toll on the family's financial and emotional resources. This sort of monthly payment may continue until the family's or child's circumstances change, or the agreement terminates as outlined in Termination of Adoption Assistance, Section 7.306.59, of the Adoption Assistant agreement rules.
 - 2) "Time-Limited Adoption Assistance Agreement" means to partially meet the everyday needs of the child for a specified period. These are start-up costs for those things that children placed for adoption do not always have, such as sufficient clothing. Agreement partially covers unmet needs that are time limited and non-renewable.

- 3) "Dormant" or "Medicaid Only Adoption Assistance Agreement" means there is no adoption assistance payment provided at this time. County departments shall document special needs for the child in the services record and in the State Department's automated system that the potential need for financial adoption assistance exists and may need to be activated at a future time.
 4. If the child is legally available for adoption and reunited with his/her birth parent(s), the child is not eligible for adoption assistance.
 5. Medicaid is available to all Colorado children who have an adoption assistance agreement.
 6. Families who adopt children who meet the criteria for adoption assistance are eligible for non-recurring adoption expenses.
 7. The contact requirements in Section 7.001.6 shall be used prior to finalization and contacts shall be documented in the case file.
 8. Case services payments may be part of an adoption assistance agreement; these payments can be made directly to the providers of service or to the adoptive parent(s).
- B. Target groups for adoption assistance agreements:
1. Children whose special needs are a barrier to their adoption are legally available for adoption and are in the custody of a county department and the county has guardianship of the child with the right to consent for adoption.
 2. Children who are in the custody of a relative, tribe, or licensed non-profit child placement agency and meet the eligibility criteria to participate in one of Colorado's adoption assistance programs.
 3. The county department, agency, tribe, or relative requesting the adoption assistance agreement is financially responsible for the care of the child.
- C. County requirements for adoption assistance:
1. The county department shall obtain and document the diagnoses and prognoses of the child's needs that are barriers to the adoption.
 2. The documentation shall include, but is not limited to:
 - a. Medical
 - b. Psychological
 - c. Psychiatric
 - d. Placement history
 - e. Special needs: if the county department determines that the child is one with special needs for whom services will be purchased, it must confirm the special needs by a second opinion of a social worker, doctor, psychologist or mental health specialist who is outside the department.

- f. Other appropriate reports.
- 3. The county department shall determine the child's eligibility for adoption assistance on the State-prescribed form no later than the calendar month that the adoption petition is filed.
- 4. The county department shall ensure that all parties sign the adoption assistance agreement before the adoption is finalized.
- 5. The family shall be informed in writing of its right to a fair hearing.

7.306.41 Title IV-E Adoption Assistance Program [Rev. eff. 12/1/12]

A. Pathways to Eligibility

Title IV-E adoption assistance services may be provided to children whose special needs are a barrier to their adoption, who are legally available for adoption, and:

- 1. Are in the custody of the county department via a court-ordered removal;
- 2. Have Social Security Income (SSI) eligibility;
- 3. Are IV-E eligible in a previous adoption;
- 4. Are in mutual foster care placement with a county department;
- 5. Were initially removed via voluntary placement agreement;
- 6. Were voluntarily relinquished to a public or private licensed non-profit child placement agency;
- 7. Are in the custody of a relative and the children are IV-E eligible;
- 8. Are otherwise IV-E eligible but do not meet AFDC requirements, and are eligible via the requirements in Section B, 7, of this section.

B. Requirements for Eligibility

- 1. A child must be removed from his/her home by a court order that contains the requirements in Section 7.001.41, B.
 - a. For the purposes of Title IV-E adoption assistance only, there is no requirement for a "reasonable efforts" judicial determination; and,
 - b. Aid to Families with Dependent Children (AFDC) related requirement defined in Section 7.001.41, D.
- 2. Have Social Security Income (SSI) eligibility.
 - a. This factor must be met at any time prior to finalization of the adoption.
 - b. If eligible, the child may simultaneously receive SSI and Title IV-E adoption assistance payments.

- c. If a child is SSI eligible, there are no requirements for the AFDC requirements or the statement regarding efforts to place the child without adoption assistance.
- 3. Are IV-E eligible in a previous adoption and the adoptive parents have relinquished, had their parental rights terminated, or died and the children are placed in a subsequent adoptive placement, then the children retain Title IV-E eligibility for adoption assistance in their new adoptive placement. Additional requirements for this pathway to eligibility include:
 - a. A new determination regarding the children's continuing special needs.
 - b. Completion of new adoption assistance agreements with the new prospective adoptive parents.
 - c. If the previous adoptive parents are deceased, a copy of the death certificate must be provided.
- 4. Are in mutual foster care placement with a county department.
 - a. The children must be placed with their teen parent; and,
 - b. The foster care payment included both the children and the teen parent.
- 5. Are in foster care by voluntary placement agreement with a county department (a tribe or another public agency with which the state/county has a Title IV-E agreement). The child must meet the requirements outlined in Section 7.001.41, E.
 - a. There must have been at least one Title IV-E foster care maintenance payment made on behalf of the children under the voluntary placement agreement.
 - b. Under this factor, there is no specified amount of time that the children must have been in foster care under the voluntary placement agreement.
- 6. A child who was voluntarily relinquished to a public or private licensed non-profit agency must meet the requirements in Section 7.001.41, F., and:
 - a. A petition was filed in court to place the child outside of the home within six months of the time the child lived with the relinquishing parent; and,
 - b. A subsequent order was issued which included findings that it is in the best interests of the child to be placed out of the home; and,
 - c. Legal orders placing the child in the custody of a public or private licensed non-profit child placement agency with authority to consent to the child's adoption.
 - d. The agency must provide documentation of the efforts the agency made to place the children for adoption without an adoption assistance agreement when the child meets the AFDC-related requirements.
- 7. Effective on the dates listed in this section, if the child does not meet AFDC IV-E eligibility criteria, has special needs, and meets the following requirements in the Federal Fiscal Year in which the adoption assistance agreement is signed by all parties, the child will become categorically eligible for Title IV-E adoption assistance:
 - a. October 1, 2009 (Federal Fiscal Year 2010)

- 1) Turns sixteen (16) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to age or time in foster care and placed with the aforementioned sibling.
- b. October 1, 2010 (Federal Fiscal Year 2011)
- 1) Turns fourteen (14) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- c. October 1, 2011 (Federal Fiscal Year 2012)
- 1) Turns twelve (12) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- d. October 1, 2012 (Federal Fiscal Year 2013)
- 1) Turns ten (10) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- e. October 1, 2013 (Federal Fiscal Year 2014)
- 1) Turns eight (8) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- f. October 1, 2014 (Federal Fiscal Year 2015)

- 1) Turns six (6) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
 - g. October 1, 2015 (Federal Fiscal Year 2016)
 - 1) Turns four (4) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
 - h. October 1, 2016 (Federal Fiscal Year 2017)
 - 1) Turns two (2) years of age or older at any time during this Federal Fiscal Year; or,
 - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
 - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
 - i. Beginning on October 1, 2017 (Federal Fiscal Year 2018): rule 7.306.41, B, 7, applies to any child being adopted regardless of age, time in placement or sibling placement status.
8. Beginning on October 1, 2009 (Federal Fiscal Year 2010), if the youth reaches the age of sixteen (16) prior to the signatures on the adoption assistance agreement, the agreement can continue up to age twenty-one (21), if the youth meets one of the following criteria:
- a. Completing secondary school (or equivalent); or,
 - b. Enrolled in post-secondary or vocational school; or,
 - c. Participating in a program or activity that promotes or removes barriers to employment; or,
 - d. Employed eighty (80) hours per month; or,
 - e. Determined incapable of any of the above due to a documented medical condition.
9. After children have been determined eligible for Title IV-E adoption assistance payments and/or Title IV-E Medicaid benefits, Title IV-E eligibility continues as long as there is an adoption assistance agreement in effect as outlined below:

- a. The children meet the requirements regardless of the family's state of residence.
 - b. Eligibility may continue even though no payments or Medicaid benefit is currently paid; therefore, maintaining the potential Title IV-E benefits if needed later.
 - c. Until the expiration of the original agreement unless all parties to the agreement are in concurrence. This includes, but is not limited to, the situation where the family fails to complete and return paperwork related to the three-year review of the assistance agreement.
10. The county shall obtain documentation of school attendance or reasons for inability to attend. The documentation must demonstrate that each child who is eligible for adoption assistance and who has attained the minimum age for compulsory school attendance is:
 - a. Enrolled or in the process of enrolling in an institution that provides elementary or secondary education, or,
 - b. Instructed in elementary or secondary education at home in accordance with the home school statute, or,
 - c. In an independent study elementary or secondary education program in accordance with statute, and which is administered by the local school, school district, or Board of Cooperative Education (BOCES), or,
 - d. Incapable of attending school on a full-time basis due to the medical condition of the youth or child. The reasons shall be supported by regularly updated information in the educational plan maintained by the school, school district, or BOCES.

C. Foster Care Placement of a Child Under an Adoption Assistance Agreement

1. Title IV-E eligibility must be determined when a child is dually placed in foster care and adoption assistance. The child does not automatically retain the Title IV-E eligibility.
2. The State prescribed form must be completed using the adoptive parent's income.
3. The child, upon returning to the adoptive parent(s)' home, continues to be eligible for the Title IV-E adoption assistance agreement.

D. Eligibility Determination for Medicaid in Title IV-E Adoption Assistance

1. Children with an effective adoption assistance agreement are eligible for Medicaid in the state they reside. See Medical Resources section, 7.402 Medicaid for children covered by the Interstate Compact on Adoptions and Medical Assistance (ICAMA).
2. An adoption assistance payment is not required to extend Medicaid coverage.
3. Colorado is a member of the Interstate Compact on Adoption and Medical Assistance. Procedures for completing and complying with the compact are in the Medical Resources section, Children Moving from Colorado (Section 7.402.3, B.).
4. Medicaid eligibility shall be continued for IV-E eligible children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State approved form.

5. Medicaid eligibility for all children receiving Medicaid shall be re-determined yearly only if the child continues to be eligible for Medicaid. This can be done by completing the State prescribed form or completing a form letter that the children continue to be eligible for Medicaid. This form letter shall be sent to other states by the county department to ensure continuation of Medicaid for a child who is residing out of state.

E. County Process for Title IV-E Adoption Assistance Agreements

1. Determine and document a child's special needs and eligibility for adoption assistance.
2. Utilize financial information regarding the family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in adoption assistance.
3. The adoption assistance agreement shall be established in accordance with the county department's written policy. The policy shall outline the criteria used for determining the amount of adoption assistance.
4. It is not permissible for a county to include a statement in the adoption assistance agreement that IV-E adoption assistance payments and/or services are subject to the appropriation of state funds.
5. Make a good faith effort to negotiate an adoption assistance agreement with the adoptive parent(s). The county shall base the negotiation on the special needs of the child and the circumstances of the adoptive parent(s). If the parties cannot come to an agreement, the county department shall establish the subsidy amount. If the family disagrees with the decision, a fair hearing can be requested.
6. Negotiate with the adoptive parents to request the amount that is needed by the family to meet the child's special needs. This may be less than the amount for which the child qualifies.
7. The county shall establish a maximum amount that could be provided to a family. The amount shall be no more than the rate that is being paid for the child's current out-of-home care or that would have been paid if the child were in paid out-of-home care today. The monthly respite care payment that is provided under the foster care program is not a benefit under the adoption assistance program.
8. If a child with developmental disabilities is receiving an allowance in addition to the foster care payment at the time the child is placed for adoption, the allowance may continue under the adoption assistance program if the child continues to meet the criteria outlined in "Child with Adoption assistance", Section 7.306.4, A.
9. County departments who pay more than the county's foster care rate based on the child's original or amended adoption assistance agreement shall reimburse the State for eighty percent (80%) of the payment that is over the foster care rate.
10. Use the State prescribed forms to document the negotiated agreement for IV-E adoption assistance and attach supporting documentation.
11. Complete and sign the adoption assistance agreement form specifying:
 - a. The dollar amount of the adoption assistance being provided, if applicable.
 - b. The duration date of the agreement:

- 1) Until the adopted child reaches the age of 18 years; or,
 - 2) 21 years in the case of a child who is physically or mentally handicapped; or,
 - 3) On a case-by-case basis, the duration of an agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.
 - c. The services and dates of services that are covered by an effective adoption assistance agreement.
 - d. That the adoption assistance agreement must be signed and dated by all parties prior to the effective date of the agreement and before the adoption is finalized. If the county fails to completely execute the initial adoption assistance agreement prior to the effective date and prior to the finalization of the adoption, the assistance payment will become non-reimbursable by the State and IV-E moneys.
 12. Review the agreement every three years from the date of the initial agreement.
 - a. Any change in the adoption assistance agreement shall be related to the original barrier(s), identified at the time the decision was made that adoption assistance was needed.
 - b. In Title IV-E adoption assistance agreements, the agreement cannot be changed in any way without the agreement of all parties. The only exception is when there is an across-the-board reduction or increase in the foster care maintenance payment rate. In that circumstance, the State may adjust the adoption assistance payment without the adoptive parent(s)' concurrence.
 - c. The county department shall not add additional needs for adoption assistance payment after the adoption decree has been issued that is not directly related to the originally identified special needs of the child, or unless genetic in nature.
 13. The county or adoptive family may at any time negotiate changes to an existing adoption assistance agreement based on information related to the child's original condition or the family's circumstances.
- F. There are situations after finalization when adoptive parents can request a state level fair hearing before an Administrative Law Judge concerning the adopted child's eligibility for adoption assistance benefits or the amount of those benefits. These situations include, but are not limited to:
1. Relevant facts regarding the child that were known and not presented to the adoptive parent(s) prior to the finalization of the adoption.
 2. Denial of assistance based upon a means test of the adoptive family.
 3. Erroneous determination that a child is ineligible for adoption assistance.
 4. Denial of a request for a change in payment level due to a change in the adoptive parent(s)' circumstances.

5. Failure by the county or a non-profit child placement agency to advise the adoptive parent(s) about the availability of adoption assistance for children who have been identified with special needs.
6. Decrease in the amount of adoption assistance without the concurrence of the adoptive parent(s) (for Title IV-E adoption assistance agreements, only).

7.306.42 Non-Title IV-E Adoption Assistance [Eff. 02/01/2009]

A. Pathways to Eligibility

The following are ways to become eligible for non-Title IV-E adoption assistance:

1. The county department has guardianship of the person (children) with the authority to consent to adoption.
2. The county department has guardianship of the person (children) with the right to consent to adoption, but the current caregiver has custody of the children.
3. The child(ren) is not a citizen or a qualified alien but is being adopted by a U.S. citizen or qualified alien.
4. The child was not IV-E eligible in foster care.
5. The child was placed in foster care with the county department via voluntary placement agreement with the county, but:
 - a. There was no subsequent petition with the court and a court order within 180 days of living with his/her specified relative that includes the "best interest" or "contrary to the welfare" language; or,
 - b. There was no foster care payment made while in care under the voluntary placement agreement.

B. Foster Care Placement of a Child Under an Adoption Assistance Agreement

1. The State prescribed form must be completed to determine IV-E eligibility using the adoptive parent(s)' income.
2. The child, upon returning to the adoptive parent(s)' home, returns to the previous non-IV-E adoption assistance agreement.

C. Eligibility Determination for Medicaid in Non-Title IV-E Eligible

1. Colorado children who are eligible for an adoption assistance agreement, but are not IV-E eligible are eligible for Medicaid in Colorado or reciprocal states, only.
2. An adoption assistance payment is not required to extend Medicaid coverage.
3. Medicaid eligibility may or may not be continued for non-IV-E eligible children who are out of the home for more than thirty (30) calendar days depending on the county's individual policy.

4. Medicaid eligibility for all children receiving Medicaid shall be redetermined yearly only if the child continues to be eligible for Medicaid. This can be done by completing the State prescribed form.

D. Non-Title IV-E Adoption Assistance Payments

1. Determine and document a child's special needs and eligibility for adoption assistance.
2. Utilize financial information regarding the family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in adoption assistance.
3. The adoption assistance agreement shall be established in accordance with the county department's written policy. The policy shall outline the criteria used for determining the amount of adoption assistance.
4. Make a good faith effort to negotiate an adoption assistance agreement with the adoptive parent(s). The county shall base the negotiation on the special needs of the child and the circumstances of the adoptive parent(s). If the parties cannot come to an agreement, the county department shall establish the adoption assistance amount. If the family disagrees with the decision, a fair hearing can be requested.
5. Negotiate with the adoptive parents to request the amount that is needed by the family to meet the child's special needs; this may be less than the amount for which the child qualifies.
6. The county shall establish a maximum amount that could be provided to a family. The monthly respite care payment that is provided under the foster care program is not a benefit under the adoption assistance program.
7. If a child with developmental disabilities is receiving an allowance in addition to the foster care payment at the time the child is placed for adoption, the allowance may continue under the adoption assistance program if the child continues to meet the criteria outlined in "Child with Adoption assistance", Section 7.306.4, A, 3, d.
8. County departments who pay more than the county's foster care rate based on the child's original or amended adoption assistance agreement shall reimburse the State for eighty percent (80%) of the payment that is over the foster care rate.
9. Use the State prescribed forms to document the negotiated agreement for non-Title IV-E adoption assistance, and attach supporting documentation.
10. Complete and sign the Adoption assistance Agreement form specifying:
 - a. The dollar amount of the adoption assistance being provided, if applicable.
 - b. Duration of the agreement:
 - 1) In non-Title IV-E adoption assistance agreements, duration is decided by county policy, according to the special needs of the child and family circumstances. It may not continue past the child's 21st birthday.
 - 2) On a case-by-case basis, the duration of an agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.

- 3) In the case of a child who turns eighteen (18), is still in high school, and has been eligible for Title IV-E adoption assistance, the child's eligibility must be changed from Title IV-E. New forms must be completed to reflect the change in the child's eligibility.
- c. The services and dates of services that are covered by an effective adoption assistance agreement.
 - d. That the adoption assistance agreement must be signed and dated by all parties prior to the effective date of the agreement and before the adoption is finalized. If the county fails to completely execute the initial adoption assistance agreement prior to the effective date and prior to the finalization of the adoption, the assistance payment will become non-reimbursable by the State.
11. Review the agreement every three years from the date of the initial agreement.
 - a. Any change in the adoption assistance agreement shall be related to the original barrier(s), identified at the time the decision was made that adoption assistance was needed.
 - b. In non-Title IV-E adoption assistance agreements, any changes must be made related to the special needs of the child, the family circumstances and county policy.
 - c. The county department shall not add additional needs for adoption assistance payment after the adoption decree has been issued that is not directly related to the originally-identified special needs of the child, unless they are genetic in nature.
12. The county or adoptive family may at any time negotiate changes to an existing adoption assistance agreement based on information related to the child's original condition or the family's circumstances.

7.306.43 State Monitoring/Sanction Process of Adoption Assistance Programs in Counties

Monitoring will be conducted annually on county departments by State Child Welfare staff using a risk-based approach looking at the number and kinds of complaints received by consumers, advocates or the general public.

- A. The state will randomly select cases from the adoption assistance caseload.
- B. Each county will be given three opportunities to pass the review before a fiscal sanction is established.
 1. Counties passing the initial Stage I review will be reviewed every three years.
 2. If the county fails the initial review, a Stage II review will be conducted in the second year.
 3. If the Stage II review is failed, the county will go to a Stage III the next year.
- C. At each stage, the county will be given an opportunity to provide information to the state that will enable the case that is out of compliance to pass the review.
- D. A county failing the review will be offered technical assistance based on issues identified during the review and will be required to develop a corrective action plan.

- E. If the county fails all three stages, the reviewed cases that are out of compliance in the third stage will be converted to county-only funding in the third year.

7.306.44 Basis for Establishing the Amount of an Adoption Assistance Subsidy

This section has been moved in order to consolidate rules related to adoption assistance in one location. Refer to Sections 7.306.41 and 7.306.42.

7.306.45 Authorized Types of Adoption Assistance Subsidies

This section has been moved in order to consolidate rules related to adoption assistance in one location. Refer to Section 7.306.4.

7.306.5 INSTRUCTIONS FOR REIMBURSEMENT OF ADOPTION ASSISTANCE SERVICES

7.306.51 Medical Payments in Adoption Assistance Agreements

7.306.511 General Provisions

- A. Medical adoption assistance agreement payments are made directly to adoptive parents for a service already received or to a vendor for treatment of a physical or developmental disabilities or emotional disturbance. A medical adoption assistance agreement shall relate directly to the barrier or barriers identified at the time the initial agreement is approved.
- B. Medical adoption assistance agreements are not available for treatment of any physical or developmental disability or emotional disturbance diagnosed after finalization of the adoption.
- C. Medical adoption assistance agreements may be used to supplement any other available resource such as an adoptive family's private insurance that pays part but not all for the child's treatment (physical, mental, and emotional).
- D. Medical adoption assistance agreements can only be used for Medicaid cases if the service requested is something that would not be covered under the State Medicaid Plan and relates to the direct barrier/need identified at the time the child is placed for adoption.
- E. Adoption assistance payments for medical services shall reflect the reasonable costs of those services in the child's community.

7.306.52 Reimbursable and Non-Reimbursable Adoption Assistance Case Services

Case services are a type of purchased program services that support a case plan for children in out-of-home placement or an adoption assistance agreement.

Case services are provided to meet a child's special needs identified when the child is placed for adoption and which are not covered by the adoption assistance or Medicaid assistance agreements.

To be eligible for case services in an adoption assistance agreement, the State prescribed form outlining the agreement must be in place and the case open in the Department's automated reporting system as an adoption assistance case.

A. Medical

1. Orthodontia

- a. Cosmetic reasons - not reimbursable.

- b. Special needs directly related to the reason for which the child was classified as special needs, e.g. cleft palate or injury related to an abuse will be reimbursable.

2. Eye Glasses

Eyeglasses are not reimbursable using case services dollars as Medicaid pays for one pair of glasses per year.

Payment for additional eye glasses in a year or contacts related to the child's special needs identified at the time of the initial adoption assistance agreement are reimbursable.

3. Medication

- a. Routine that is not related to the child's special needs-not reimbursable.
- b. If related to child's special needs-reimbursable. The medication must be prescribed by a licensed physician and related to the special need identified at the time the child was approved for adoption assistance.

4. Special Therapies - Speech, Occupational, and Physical

- a. If not available through other community and family resources-reimbursable. School-age children should receive these services through the school system.
- b. When these services are available in hospitals and clinics-not reimbursable as Medicaid covers these costs.

5. Special Equipment

Special medical needs/equipment, as prescribed by a physician may be reimbursable.

For severely physically challenged children, special exceptions should not exceed \$2,000 without a supervisor's written authorization.

B. Psychological Services

- 1. Time-limited out-patient therapy for children living in states that do not accept Medicaid for this service-reimbursable, if related to the child's special needs and a written plan is obtained from the service provider which contains:
 - a. Diagnosis.
 - b. Prognosis.
 - c. Length of service.
 - d. Individuals who will be seen in therapy.
 - e. A cap on the amount of money to be spent for the psychological exam or therapy.
 - f. Frequency of contact (i.e., once a week, twice a month, etc.).
 - g. Type of therapy being provided (i.e., individual, group, family, etc.).

2. If time-limited out-patient therapy is available using Medicaid – not reimbursable.
3. Day treatment - not reimbursable as Medicaid provides for this service.
4. Residential child care facility - not reimbursable as Medicaid provides for this service.
5. In-patient psychiatric hospitalization - not reimbursable as Medicaid provides for this service.

(Children who are Medicaid eligible may receive some in-patient psychiatric services under the Medicaid Program.)

C. Educational Costs

1. Tutoring-not reimbursable.

School systems are mandated to provide all children with special needs a free appropriate public education.

2. School tuition-not reimbursable.

There will be no reimbursement for tuition expenses through the adoption assistance program. If the family wants the child to remain in his/her current private school placement, this is an expense for which they are responsible.

D. Respite and Day Care

1. Respite Care-reimbursable.
2. Day Care-not reimbursable except for IV-E children. If day care services are needed and the child is IV-E eligible at the time of adoption, the family should be referred for day care services as they are eligible for Title XX services.

E. Other Adoption Assistance Case Services

Adoption assistance case services for either IV-E or non-IV-E may be provided for a specified time to provide needed services, such as, but not limited to, transportation to facilitate adoptive placement. It is required that these time-limited services/funds are clearly provided on a case-by-case basis. This requirement must be clearly documented in the agreement.

7.306.53 Non-Recurring Adoption Expenses [Rev. eff. 2/1/10]

- A. Reimbursement for the following non-recurring adoption expenses, not to exceed \$800 per child, is available to parents adopting children with special needs:
 1. Legal fees.
 2. Adoption fees.
 3. Other expenses related to the legal adoption of the child(ren).
- B. The county department shall decide if an adopted child for whom reimbursement is being requested meets the criteria as a special needs child.

- C. The county department shall use the State-prescribed forms for children not in the department's custody.
- D. The county department shall use the State-prescribed forms for children in the department's custody.
- E. If no county department holds custody, reimbursement for the non-recurring adoption expenses will be based on the adoptive family's county of residence.
- F. Effective October 1, 2010, federal law specifically prohibits adoption assistance payments or non-recurring expenses on behalf of an "applicable child" who is not a citizen or resident of the U.S. and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted.

Colorado will provide non-recurring adoption assistance payment up to \$800 per child for children adopted internationally or through a private licensed non-profit adoption agency when the family has been able to:

1. Make application prior to the adoption.
2. Provide evidence of the child's special needs.
3. Provide evidence that the agency did child specific recruitment for the child identified.
4. Provide evidence the family has an approved home study.
5. Provide an itemized statement of the expenses to be reimbursed.

7.306.54 Continuing Adoption Assistance Agreements Beyond Age Eighteen

- A. If a child is 18 years of age and has not graduated with a high school equivalency or vocational training, the county may continue the adoption assistance under the State and county-only program until the child finishes high school/vocational training or is 21 years of age. The county shall document in the record that the child is enrolled full-time in high school or vocational training and are making progress in the program.
- B. If the child is eligible for a Title IV-E adoption assistance until the age of eighteen (18), that agreement must be terminated. Any new non-Title IV-E agreement must be signed by the county and the family upon or prior to the child's 18th birthday.
- C. A child who is identified in the original adoption assistance agreement as being developmentally disabled or physically handicapped, is between the age of 18-21, and continues to live at home, may continue to be eligible for the adoption assistance program as long as these disabilities were identified and documented in the original agreement paperwork or is genetic in nature.
- D. If a county continues adoption assistance beyond the child's 18th birthday without the child meeting the criteria in A or B, above, the county will be sanctioned for the adoption assistance payments made beyond the child's 18th birthday.

7.306.55 Post-Legal Adoption Services

The county of residence shall offer Core services to eligible families with an adoption assistance agreement according to the needs of the family.

7.306.56 Accepting and Processing Applications for Adoption Assistance from Child Placement Agencies [Rev. eff. 2/01/10]

- A. Colorado non-profit licensed adoption agencies can access adoption assistance if the child is in their custody and meets Title IV-E eligibility, as outlined in Section 7.001.41.
- B. The county department where the adoptive family lives will process the application for assistance.
- C. If the child is being placed out-of-state, the state in which the family resides will process the application.
- D. The county department reviews the material submitted by the child placement agency and determines the child's eligibility for Title IV-E adoption assistance.
- E. The county department shall advise the child placement agency and the family in writing within ten working days of the date of approval or denial and inform the family of its right to appeal the decision.
- F. After the county department approves the adoption assistance, it shall open the case on the Department's automated reporting system.
- G. Approved adoption assistance payments may begin as of the date of the signing of the agreement. The child placement agency is responsible for any costs before the initiation of the adoption assistance agreement and prior to finalization.
- H. Adoption assistance available to the eligible child are:
 - 1. Medicaid (Title XIX).
 - 2. Adoption assistance payment.
 - 3. Non-recurring adoption expenses.
- I. Before finalization of the adoption, the child placement agency that arranged the adoption retains responsibility for continued services to the adoptive family should they be requested.
- J. The county department shall terminate adoption assistance payments and eligibility for Medicaid as outlined in Termination of Adoption Assistance (7.306.59) and Title IV-E (7.306.41) sections.

7.306.57 Review of Eligibility for All Ongoing Adoption Assistance Agreements [Rev. eff. 2/1/10]

- A. The county shall review the current adoption assistance agreement every three (3) years.
 - 1. The county department shall initiate the written notice of the review for adoption assistance sixty (60) days prior to the three-year anniversary of the agreement.
 - 2. The adoptive family may request a review of the agreement prior to the three-year review if changes in the needs of the child or family circumstances occur.
 - 3. Any changes in the needs of the child shall relate to the original barrier(s), identified at the time the decision was made that adoption assistance was needed. The county department shall not add additional needs for adoption assistance payments after the adoption decree has been issued unless genetic in nature.

- B. The county shall annually review documentation of school attendance or reasons for inability to attend. The documentation must demonstrate that each child who is eligible for adoption assistance and who has attained the minimum age for compulsory school attendance is:
1. Enrolled (or in the process of enrolling) in an institution that provides elementary or secondary education, or,
 2. Instructed in elementary or secondary education at home in accordance with the home school statute, or,
 3. In an independent study elementary or secondary education program in accordance with statute, and which is administered by the local school, school district, or board of cooperative education (BOCES), or,
 4. Incapable of attending school on a full-time basis due to the medical condition of the youth or child. The reasons shall be supported by regularly updated information in the educational plan maintained by the school, school district, or BOCES.

7.306.58 Reinstatement of Subsidy

- A. Non-Title IV-E adoption assistance agreements may be reinstated if the services requested relate to the child's special needs which were identified at the time of the original subsidy.
- B. Reinstatement of adoption assistance agreements is not possible if the original adoptive parents no longer have legal custody of the child.
- C. When adoptive parents have relinquished, have had their parental rights terminated, or have died and the child is placed in a subsequent adoptive placement, then the child retains IV-E eligibility for reinstatement of the adoption assistance agreement in his/her new adoptive placement.

7.306.59 Termination of Subsidy

- A. The county department shall terminate adoption assistance agreements when the:
1. Family requests payments end; or,
 2. Child reaches age 18 or until age 21, if the county has determined that the child has a developmental or physical disability which warrants continuation of assistance; or,
 3. Adoptive parent(s) are no longer legally responsible for the support of the child; or,
 4. Child is no longer receiving any support from the adoptive family; or,
 5. County of responsibility verifies the child's death, or marriage.
- B. Procedures for Adoption Assistance Payment, Adoption Case Services and Medicaid Adoption Assistance Agreement

1. When the child is receiving a non-Title IV-E adoption assistance agreement and the child is absent from the home for over 30 calendar days, the adoption assistance payment and adoption case services will be discontinued. (See Section 7.404, regarding Placement Fees for out-of-home care.) If the child is in placement in a facility where he/she comes home for holidays or visits, this is not to be used as justification for continuing the non-Title IV-E agreement. A state/county non-Title IV-E agreement can only be resumed when the child is returned home and the out-of-home placement has been discontinued on the Department's automated reporting system.
2. Children with a Title IV-E adoption assistance agreement who are out of the home for more than 30 calendar days will continue to receive an adoption assistance payment if it is a part of the child's adoption agreement. (See Section 7.404 regarding placement fees for out-of-home care.)
3. Medicaid eligibility shall continue for Title IV-E eligible children who are out of the home for more than 30 calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State prescribed form (see County Department Requirements, Section 7.402.2).

7.306.6 RIGHT TO APPEAL

- A. When the county department denies an application for adoption subsidy, or reduces or terminates the subsidy grant, the applicant or recipient shall have a right to appeal. See Section 3.850 of the Income Maintenance staff manual on Appeal and State Hearing (9 CCR 2503-1).
- B. When a family who has been denied Title IV-E Subsidized Adoption benefits requests a state level Fair Hearing, it is the responsibility of the Administrative Law Judge to determine whether the applicant or recipient was wrongly denied eligibility or whether the amount of the subsidy was determined correctly. (See Section 7.306.41, E, for fair hearing circumstances.)
- C. The adoptive parents have the burden of proving extenuating circumstances and adoption assistance eligibility at a state level Fair Hearing. The state and or/its designee can provide factual information to assist the family in establishing eligibility for Title IV-E adoption assistance.
- D. When either state or federal law requires or results in a reduction or deletion of services, a hearing need not be granted.

7.307 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

The purpose of the Interstate Compact on the Placement of Children is to ensure timely placements of children across state lines in the least restrictive and appropriate settings in the 50 states, District of Columbia, and the U.S. Virgin Islands. The sending and receiving state authorities shall have sufficient background information to make informed decisions concerning a proposed placement, to arrange for the provision of services to the child as needed, and to designate where planning, financial, and jurisdictional responsibility for the child lies.