

## **ADOPTION SUBSIDY**

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## **I. INTRODUCTION**

Federal and state adoption assistance, referred to by the Department as adoption subsidy, is provided to facilitate the adoption of children with special needs by assisting with the removal of financial barriers to adoption. Adoption subsidy may be provided to children who meet special needs criteria, as well as other eligibility requirements, described in this policy. Children placed by public or private licensed child placing agencies may qualify for adoption subsidy if the child placing agency provides certain information to the State Department of Human Resources. In addition to receiving adoption subsidy payments, special needs children may be eligible for Medicaid.

### **A. Legal Bases**

Code of Alabama 1975, § 26-10-20 through § 26-10-30 established the “Alabama Subsidized Adoption Act” for the purpose of making it possible for certain children, who otherwise may not be adopted, to have permanent adoptive homes. In the 2011 Legislative Session, substantial amendments were made to sections of the Code of Alabama 1975 relating to the adoption subsidy act. The 2011 amendments provided for definitions, subsidy payments, reasons for terminating adoption subsidy and to annual reporting and hearing procedures. Code of Federal Regulations, 42 CFR 673 and the Social Security Act Section 473 and Section 475(3) details the requirement for federal adoption subsidy payments. To make it easier for children with special needs to be adopted, the Tax Reform Act of 1986 amended Title IV-E of the Social Security Act to require states to make payments on behalf of an eligible child for non-recurring adoption expenses. The Adoption and Safe Families Act of 1997 provided that children from dissolved adoptions who were receiving a federal adoption subsidy may continue to be eligible for such adoption subsidy.

### **B. Adoption Subsidy and Practice Model Principles**

The Department’s practice model is the foundation for developing the policies and procedures for the adoption subsidy program. Principles of the model are permanency, stability, well being, individualized services that are family centered and culturally responsive, community collaboration and professional competence. Adoption subsidy promotes the timely achievement of permanency for children and, through appropriate planning, promotes the opportunity for children to experience love, feelings of belonging and nurturing in a family environment. Adoption subsidy supports the practice of providing family centered and culturally responsive adoptive placements for children.

## **II. REQUIREMENTS AND PROCEDURES FOR ADOPTION SUBSIDY**

The SDHR, Family Services Division, Office of Adoption must concur with a county department’s determination that a child is eligible for adoption subsidy before payments may begin.

A. Assessing Appropriateness of Adoption Subsidy

In order to qualify for adoption subsidy, **children must meet all four (4) of the following criteria.**

1. The Licensed Child Placing Agency/Department of Human Resources must have determined and documented that a child cannot or should not be returned to the home of his parents. For the Department, this is determined through the ISP process and before the permanency goal of adoption is agreed upon. In most cases, the termination of parental rights is the final step in meeting this requirement. Refer to Termination of Parental Rights, Section II and III of the *Adoption Policies and Procedures* for discussion on the criteria for termination of parental rights. Section III of the *Adoption Policies and Procedures* is a discussion of “relinquishments” and addresses birth parents’ decision regarding relinquishment and the Department’s preferred method of terminating parental rights in relinquishment situations prior to pursuing adoption.

For Licensed Child Placing Agency (LCPA):

Private Independent Adoptions require proof of pending adoptions including but not limited to, adoption petition and consent to adoption forms. The names of biological parents must be submitted to the Department.

2. Children must be determined as having special needs. Adoption subsidy is predicated on the belief that children with special needs require more than ordinary parental duties from adoptive parents; that children with special needs usually incur extra expenses; and that parenting children with special needs is more challenging than parenting children without special needs.

The child’s worker (county social worker or LCPA case worker) must determine that the child being placed for adoption has special needs and there are special circumstances that make adoption unlikely without a subsidy. The child has a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption subsidy or medical assistance under Medicaid. One (1) or more of the following conditions must exist for a child to be determined as having special needs. [Code of Alabama §26-10-22 (4)]

- a. Chronic physical or mental disability must have been documented by a medical professional. Normal childhood

illnesses (e.g., recurring ear infections in a toddler or allergies) do not meet this criterion. [Code of Alabama 1975 §26-10-22 91)]

- b. The child has a known emotional/behavioral issue that requires on-going treatment and that has been documented by a mental health professional. Examples include, but are not limited to, children with a diagnosis of oppositional-defiant disorder or post-traumatic stress disorder. [Code of Alabama 1975 §26-10-22 (2)]
- c. The child has known and documented factors that place the child at risk of developing a physical or mental disability at a future time. At the time of placement, the child may not have a documented diagnosis or show any signs of a physical or mental disability. Nonetheless, there are known and documented factors, which are captured in the non-identifying background summary, that place the child at high risk for developing such conditions. For example, there may have been prenatal exposure to drugs or exposure at birth, but all medical records, at the time of adoptive placement, indicate the child is functioning, mentally and developmentally, at age appropriate levels. There is a risk that the effects of a particular drug found at delivery will manifest itself in a future medical, emotional/behavioral or developmental problem. Money payment is deferred until the onset of symptoms, but the adoption subsidy agreement must be signed and in effect at the time of placement or prior to the final decree of adoption. [Code of Alabama 1975 §26-10-22 (3)]
- d. Children who are five (5) years of age or older.
- e. The child is a member of a sibling group of two (2) or more being placed for adoption in the same home at the same time.
- f. A child has racial or ethnic factors that make it unlikely that the child will be adopted without a subsidy. Documentation of how the child's racial or ethnic factors prohibit him/her from being adopted without subsidy must be submitted to the Office of Adoption and concurrence received from the Office of Adoption prior to entering into any adoption subsidy agreement based on this criterion. Race and ethnicity includes, but is not limited to, African American, Hispanic, Native American, Asian, or other heritage which may prevent a child from being adopted. [Code of Alabama 1975 §26-10-22 (12)]

3. In most cases, at the time of initiation of adoption proceedings, a child should be in the care or custody of the Department or a public or private child placement agency through
  - a voluntary placement agreement;
  - a voluntary relinquishment; or
  - an involuntary removal of the child from the home in accordance with a judicial determination that remaining in the home would be contrary to the welfare of the child. The term “care” refers to the responsibility vested in the Department or public or private agency with such responsibility encompassing the planning provided by the Department or agency when the child has a permanency goal of adoption. Refer to Section V (A) in this policy for a discussion on dissolved adoptions.
  
4. Reasonable efforts must be made to locate an adoptive resource for a child without benefit of an adoption subsidy or medical assistance under Medicaid, except where it would be contrary to the child’s best interests because of the existence of significant emotional ties with the prospective adoptive parents while in the care of these parents as a foster care child. In cases involving foster parents, where there is evidence to support the existence of potential detriment to the child by severing emotional ties with the foster parents who are prospective adoptive parents, no evidence is necessary that reasonable efforts have been made to place the child without subsidy. In such situations, the ISP team should determine that it is in the child’s best interest to remain in a home which could not be an adoption resource without an adoption subsidy and medical assistance. Reasonable efforts to locate adoptive parents who can accept the child without a subsidy are not required for foster parent adoptions when there are significant emotional ties that make it in the child’s best interest to remain in the foster/adoptive home. [Code of Alabama 1975 §26-10-24 (1) (2); Social Security Act §473(c)(1)(B)]

The Licensed Child Placing Agency shall provide the Department with a sworn statement detailing with specificity all of their reasonable efforts to locate an adoptive resource without the benefit of subsidy. The Department may request additional documentation from the LCPA regarding reasonable efforts based on the sworn statement.

When the Department has placement responsibility for a child with a permanency goal of “adoption with an unidentified resource”, it is necessary to register children with local, regional and national adoption exchanges; publicize the need for adoptive homes in general and for specific children; and make referrals to specialized



public or private agencies. For additional information, refer to Section V, Termination Of Parental Rights, *Adoption Policies and Procedures*.

**B. Types and Categories of Adoption Subsidies**

The Department of Human Resources is designated to administer both the federal and state adoption subsidy programs described below. [Code of Alabama 1975, §26-10-22 (5)] Federal adoption subsidy is the preferred category. Financial eligibility for both federal IV-E and state adoption subsidy is determined by the Office of Child Welfare Eligibility after the initiation of a request by the child’s worker. In determining a child’s eligibility for either federal or state adoption subsidy, there is no means test for the prospective adoptive parents [45CFR 1356.40(c)].

**1. Title IV-E Federal Adoption Subsidy**

Title IV-E adoption subsidy provides a monthly subsidy payment, eligibility for Medicaid benefits, Title XX services, and payment for non-recurring adoption expenses. In addition to those children who have been eligible for IV-E foster care maintenance payments and thus IV-E adoption subsidy payments, Public Law 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008 established two groups of children who may now be considered for federal adoption subsidy benefits. These two groups would not have been eligible for IV-E foster care maintenance payments, but may now be IV-E eligible for the purpose of adoption subsidy only. These two groups are the “applicable child” and “non-applicable child.”

**a. Applicable Child**

Beginning October 1, 2009, the federal adoption subsidy eligibility requirements delinked the federal adoption subsidy program from the former AFDC requirements (Public Law 110-351). [42 U. S. C. 673; Social Security Act Section 473 (a) (2) (A) (ii)] The term “applicable child,” as used in adoption subsidy, describes a child who was determined ineligible for IV-E foster care maintenance payments because the child did not meet the former AFDC eligibility points at entry into care, but the same child may now be eligible for federal IV-E adoption subsidy payments. The term “applicable child” is based on the age of the child in the year the adoption subsidy agreement is entered into. The concept of “applicable” children for adoption subsidy is being phased in over a nine year period. The table below shows how this will be phased in, according to a child’s age.

FY (October 1–September	Age of Child	FY of Subsidy
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30)		Agreement
2010	Turns 16 or older in same FY	2010
2011	Turns 14 or older in same FY	2011
2012	Turns 12 or older in same FY	2012
2013	Turns 10 or older in same FY	2013
2014	Turns 8 or older in same FY	2014
2015	Turns 6 or older in same FY	2015
2016	Turns 4 or older in same FY	2016
2017	Turns 2 or older in same FY	2017
2018	0-23 months in same FY	2018

With respect to eligibility for IV-E adoption subsidy payments, by fiscal year 2018, all children with documented special needs will be considered as meeting the “applicable child” age requirement. The applicable child must meet the following requirements at the time of initiation of adoption proceedings.

- The applicable child is in the care of the Department, a licensed public or private child placement agency, or an Indian tribal organization when adoption proceedings are initiated;

and

- The applicable child is in care pursuant to an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or
- The applicable child entered care pursuant to a voluntary placement agreement or a voluntary relinquishment. If a child entered care through the method of a voluntary placement agreement that child must actually have received at least one Title IV-E foster care maintenance payment to be eligible for federal IV-E adoption subsidy.

Applicable children may also be eligible for federal Title IV-E adoption subsidy through certain other conditions.

- i. The applicable child meets all medical and disability requirements of Title XVI with respect to eligibility for Supplemental Security Income (SSI) benefits; or
- ii. The applicable child was residing in the same placement with the child’s minor parent who is IV-E eligible and a foster care child in placement through an (a) involuntary removal of the minor parent child from the home in

accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child, or (b) a voluntary placement agreement or voluntary relinquishment; or

- iii. A child of any age who has been in foster care under the Department's responsibility for at least 60 consecutive months (5 years) at the time an adoption subsidy agreement is entered into is considered an "applicable child." These children must meet the requirements of being in the Department's care at the initiation of adoption proceedings; have best interest language in the first court order; or entered into care through voluntary agreement or voluntary relinquishment. If the county department is planning to enter into an adoption subsidy agreement on behalf of such a child who is ineligible for IV-E foster care maintenance payments, contact the county's consultant in the Office of Child Welfare eligibility for assistance; or
- iv. Any age sibling(s) of an applicable child who meets special needs criteria in their own right and who is placed in the same adoption placement of the applicable child may be considered eligible for federal IV-E adoption subsidy. Sibling(s) must meet the requirements of being in the Department's care at the initiation of adoption proceedings; have best interest language in the first court order, or have entered into care through a voluntary agreement or voluntary relinquishment and meet the definition of "special needs" in his own right. [Social Security Act §473(a)(2)(A)(ii) (e) (3)]

With respect to applicable children, it is the responsibility of a child's social worker to determine and document whether the applicable child meets the special needs criteria discussed above in this policy. [Social Security Act 473(a)(2)(A)(ii)(II)]

b. Non-Applicable Child

The child who does not yet meet the age for being phased in under Public Law 110-351 is referred to as the "non-applicable child." This is the group of foster care children who were determined to be ineligible for IV-E foster care maintenance and have not yet reached the age requirements in the table above in Section B(1)(a), nor does the child meet other avenues discussed above (siblings or in care 60 months, etc.). This child continues to have the eligibility requirements in place prior to passage of Public Law 110-351. The "non-applicable child" must meet the following

requirements to be eligible for federal IV-E adoption subsidy.  
[Section 473 (a)(2), Social Security Act]

- i. Be removed from the home of a specified relative or had been living with a specified relative within the past six months and placed in foster care in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or
- ii. Be removed from the home of a specified relative or had been living with a specified relative within the past six months and placed in foster care in accordance with a voluntary placement agreement and received at least one Title IV-E foster care maintenance payment while under the voluntary placement agreement [Social Security Act §473(a)(2)(A)(i)(I)(aa)(AA)]
- iii. In addition to i. and ii., the non-applicable child must meet the requirements with respect to the former AFDC program of July 16, 1996; or
- iv. Meet all of the requirements of Title XVI with respect to eligibility for Supplemental Security Income (SSI) benefits; or
- v. Be a child of a IV-E eligible foster care child, living in the same placement, whose payments in foster care are IV-E foster care maintenance payments; or
- vi. Be a child who was eligible for title IV-E adoption subsidy in a previous adoption which is dissolved or the adoptive parents have died. Verification of the child's special needs determination and previous IV-E eligibility is required. Refer to Section V (A) for a discussion of dissolved adoptions. [Social Security Act §473(a)(2)(C)]
- vii. In addition to i. through vi., the Department must have determined the "non-applicable child" to be a child with special needs. Refer to the discussion above on criteria for special needs, Section II (A) (2)(a-f).

The Office of Child Welfare Eligibility, SDHR, determines whether items i, through vi. are met by the child. It is the responsibility of the child's worker to determine and document whether the child meets the special needs criteria (item vii.) discussed above in this policy.

- c. Reasonable Efforts Language and Federal IV-E Adoption Subsidy

It is possible that a child, who was ineligible for title IV-E foster care maintenance payments due to the absence of “reasonable efforts” being addressed in the initial court order or a court order issued within 60 days of entering care, could be eligible for IV-E adoption subsidy. **“Reasonable efforts to prevent removal” language in the initial court order or a court order issued within 60 days of entering care is not a requirement for IV-E adoption subsidy payments.”** In situations of a child being ineligible for IV-E foster care maintenance payments due to the absence of “reasonable efforts to prevent removal” language, the child’s worker should contact the county’s consultant in the Office of Child Welfare Eligibility for assistance.

2. State Adoption Subsidy

State adoption subsidy provides a monthly subsidy payment. To be eligible for State adoption subsidy, the child must meet the criteria for special needs as discussed in Section II (2) above and have private income less than the appropriate age appropriate foster care maintenance payment. Medicaid is also available for certain children who meet criteria established to determine the need for medical or rehabilitative care as discussed below. The federal subsidy for non-recurring expenses is also available to all children eligible for State Adoption Subsidy. State adoption subsidy continues up to age nineteen (19) years (age of majority). If the child is still in high school with a goal of graduation, the state adoption subsidy may continue until the child graduates from high school, is no longer enrolled in high school, or attains the age of 21, whichever comes first. State subsidies are only available to foster children.

a. State Adoption Subsidy and Medicaid

The Adoption and Safe Families Act of 1997 [Social Security Act §471(a)(21)(A)&B)] requires states to provide health insurance for special needs children for whom there is an adoption subsidy agreement between the state and the children’s adoptive parent(s). This requirement recognized that special needs children are likely to need continued medical, mental health or rehabilitative care. The requirement at §471 provides for “title XIX Medicaid or a comparable medical plan.” Therefore, if the child is to receive a state adoption subsidy but does not qualify for Medicaid, as discussed below, there must be documentation that the adoptive parents can and will provide private health insurance for the adoptive child. Private health insurance will meet the federal requirement for the child to have health insurance coverage.

A child is eligible for state adoption subsidy Medicaid when both of the following criteria are met.

- i. At the time the adoption subsidy agreement is negotiated, the child who was eligible for Medicaid under the State's approved Medicaid plan for foster care children (ACFC Medicaid) will be eligible for Medicaid (Title XIX) through the adoption subsidy Medicaid. If the child was not eligible for Medicaid while in foster care and at the time the adoption subsidy agreement is negotiated, a determination must be made of whether the child would be eligible for Medicaid if the standards and methodologies of the Title IV-E foster care program were applied, rather than the former AFDC standards and methodologies that are applied to ACFC Medicaid. The income level applied to the Title IV-E Medicaid is the age appropriate foster care board payment which is higher than the ACFC Medicaid income level which can make a child eligible for Medicaid under the state adoption subsidy program. Contact the Office of Adoption for assistance in awarding Medicaid in these situations. If the child is not eligible for one of the foster care Medicaid categories and the adoptive parents cannot or will not provide health insurance, the child's worker should explore SOBRA Medicaid and ALLKids.

**And**

- ii. The child's worker has determined that an adoptive placement without medical assistance cannot be made because the child has known, pre-existing, on-going needs which are professionally documented for medical, mental health or rehabilitative care. [Social Security Act §471(a)(21)(A)&(B)]

When establishing the child's need for continued medical, mental health or rehabilitative care, the Office of Adoption considers the child's conditions, potential or actual, which would deter the possibility of adoptive placement without Medicaid/health insurance coverage. These conditions include, but are not limited to the following:

- the child's need for regular prescription medication;
- pre-existing non-routine medical conditions at the time of placement, (e.g., chronic health problems such as Cerebral Palsy, seizure disorder, blood disorders, heart conditions, severe visual impairment (not just needing eye glasses) diabetes, hearing issues that require surgery or hearing aids;
- emotional or behavioral disorders requiring on-going treatment;

- the need for on-going speech, physical or other rehabilitative therapies;
- the need for day treatment or special education services that cannot be provided through the educational system;
- the need for nursing care or other specialized medical or rehabilitative services;
- the child's known and professionally documented high risk background (e.g., patterns of mental illness or intellectual disabilities in the biological family; history of numerous separations or moves; history of drug abuse usage by biological mother during pregnancy; history of serious abuse or neglect) which could increase the likelihood of serious medical, emotional or adaptive problems in the child's future but onslaught of symptoms can be expected while the child is still a minor.

Medicaid eligibility for a child who receives a state adoption subsidy will continue as long as that adoption subsidy is in effect. If the subsidy is extended beyond age nineteen (19) years, the Office of Adoption will notify Alabama Medicaid about the extension. Medicaid eligibility established as a result of a state adoption subsidy payment cannot extend beyond the child's twenty-first (21<sup>st</sup>) birthday. The Medicaid eligibility is linked to the continuation of the state adoption subsidy. Refer to (2) State Adoption Subsidy above for information on extending state adoption subsidy payments.

If a child who receives a state adoption subsidy and Medicaid moves to another state, the Medicaid may be reciprocated by the new resident state provided the Interstate Compact on Adoption and Medical Assistance (ICAMA) procedures are followed. Refer to Section V(B) for information on ICAMA.

### 3. Non-Recurring Adoption Subsidy Expenses

One-time adoption expenses include reasonable and necessary expenses directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. [Social Security Act §473(a)(6)] In foster parent adoptions, this will primarily be legal expenses including attorney fees and court costs. For non-foster parent adoptions, (child had permanency plan of "Adoption, No Identified Resource) it may also include supervision of the adopted child's placement prior to the adoption's finalization, transportation costs for pre-

placement visits and placement, and reasonable lodging and food expenses for the child and/or adoptive parents which are necessary to complete the adoption process.

Under federal regulations all children eligible for an adoption subsidy payment, whether federal or state, are eligible for a federal non-recurring subsidy. The Department may reimburse adoptive parents an amount up to \$1000 per child for reasonable and necessary non-recurring expenses associated with the finalization of adoption of children eligible to receive subsidy.

(a) Payment Procedures for Non-Recurring Expenses

In order for adoptive parents to receive reimbursement of non-recurring expenses and for the Department to file for IV-E reimbursement, the following items must be submitted by the adoptive parents to the County Department.

- A written request for reimbursement of payment filed no later than 12 months from the date of the final adoption decree;
- Original paid receipts;
- An itemized bill listing the full name of the child, date of service, and items or services received; and
- A copy of the Final Adoption Decree.

Once received by the County Department, the items must be reviewed for accuracy and submitted to the Office of Adoption, adoption subsidy specialist, within 15 months from the date of the final adoption decree to allow time for processing and reimbursement. The Office of Adoption is responsible for processing and authorizing in FACTS non-recurring expenses and will respond directly to the adoptive family regarding the request for re-imburement of non-recurring expenses. Reimbursements will be made directly to the adoptive parent through the monthly subsidy payroll.

The Department may also make a direct payment to an attorney for the provision of non-recurring legal expenses associated with the finalization of an adoption as all or part of the maximum amount of \$1000 for non-recurring expenses. For direct payment, the representing attorney must submit the following items to the Office of Adoption within 12 months of the date of the final adoption decree:

- A written request for payment submitted no later than 12 months from the date of the Final Decree;
- An original itemized bill which contains the full name of the child for whom services were rendered. (The adoptive



parent must sign the original bill confirming the provision of services and indicate agreement for payment to be made directly to the attorney);

- A current Request for Taxpayer Identification Number and Certification (W-9); and
- A copy of the Final Adoption Decree.

#### 4. State Medical Time-Limited Subsidies

A state funded medical subsidy payment is a special needs subsidy that is limited to the time period of the needed service, and may involve a one-time payment or several payments. The adoptive family's medical insurance and other public and voluntary community resources must be explored to determine if the treatment and related costs can be covered. Prior approval for any state funded medical subsidy should be secured from the Office of Adoption prior to adoptive placement and completion of the adoption subsidy agreement.

##### a. State Funded Counseling Services Subsidy

A state funded medical subsidy may be awarded at the Medicaid rate for outpatient counseling only in the following situations:

- a child is in therapy with a non-Medicaid provider at the time of a foster parent adoptive placement; or
- there is no Medicaid provider located in close proximity to the child at the time of placement in a non-foster parent adoption (child with a permanency plan of Adoption, No Identified Resource); or
- payment is made at the Medicaid rate and is secondary to private insurance.

Known and documented pre-adoptive placement issues must remain the focus of therapeutic counseling intervention. Professional documentation of the child's need for therapeutic counseling intervention should be submitted to the Office of Adoption for approval prior to adoptive placement. Psychological evaluations submitted as professional documentation must be current to within six (6) months of the request for the therapeutic counseling subsidy. Written approval from the Office of Adoption should be received before negotiation and completion of the adoption subsidy agreement. This process must be completed prior to payment of any counseling services.

Counseling subsidies may be awarded for a maximum of one (1) year. If a child has received counseling subsidy for a year but continues to require the service, professional documentation

regarding the child's current circumstances must be submitted to the Office of Adoption. The professional documentation must be based on pre-adoptive placement therapeutic issues, which warrant continuation of counseling subsidy beyond one (1) year. In addition, there should be verification that no Medicaid provider is within reasonable proximity to the child and family.

i. Payment Procedures for Counseling Services Subsidy

If counseling services subsidy has been approved by the Office of Adoption, providers of counseling services must submit monthly itemized bills to the Office of Adoption along with counseling notes which substantiate that pre-adoptive placement issues remain the focus of the therapy. Payment will not be made for sessions which focus on age-appropriate behaviors displayed at home, school or within the community.

Provider bills must be original, itemized and provide the date of service(s) and as statement of the services rendered. Providers must have a 1099 on file with SDHR's Finance Division.

The Office of Adoption is responsible for processing in FACTS payment of counseling services. County Departments do not authorize counseling services in FACTS.

b. State Funded Orthodontia Services Subsidy

A state funded medical subsidy may be awarded for orthodontia services if the work is determined to be medically necessary and is in progress or is set to begin within ninety (90) days of adoptive placement. Professional documentation of the medical necessity for orthodontia and the orthodontist's written statement of the estimated costs should be submitted to the Office of Adoption for approval prior to adoptive placement and written approval should be received prior to adoptive placement. Approval must be received from the Office of Adoption before the orthodontia work begins. Orthodontia services may, in unusual situations, be requested and approved after adoptive placement is made, but cannot be requested or approved after finalization of the adoption. Orthodontia services should be completed prior to the legal finalization of the adoption.

i. Payment Procedures for Orthodontia

If the Office of Adoption has given approval of Orthodontia Subsidy for a child, the provider submits the original bill directly to the Office of Adoption. The bill

must be itemized and provide the date of service(s) and a statement of the services rendered. The provider must have a 1099 on file with SDHR's Finance Division.

The Office of Adoption is responsible for processing in FACTS payment of orthodontia services. County Departments do not authorize orthodontia services in FACTS.

### III. SUBSIDY AMOUNTS

The amount of the adoption subsidy payment is determined case by case and through negotiation and agreement with the adoptive parents and the Department of Human Resources, and is to take into consideration the adopting parent's circumstances and the needs of the child being adopted. The amount of subsidy should be negotiated with the family and may be adjusted periodically with the concurrence of the adoptive parents to reflect changing circumstances. The amount of the adoption subsidy cannot exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home. [Code of Alabama 1975 §26-10-25; and Social Security Act §473(a)(2)(C)(3)]

On a case by case basis, a child's private income is considered in negotiating the adoption subsidy amount. Through negotiations with the prospective adoptive parents, the amount of adoption subsidy that is negotiated with the prospective adoptive parents, taking into consideration the child's own income, may be less than the amount of the Department's standard foster care maintenance payment. The total amount received by the prospective adoptive parents for the child should be the amount that the child received while in foster care, which consisted of the actual amount of the foster care maintenance payment plus the child's private income.

The child's worker should notify the source agency of the private income (e. g. Social Security Administration) that the child will be receiving an adoption subsidy, specifying the amount and effective date and whether the adoption subsidy is a federal IV-E subsidy or a state subsidy. Refer to Section III (B), "Child's Private Income and Amount of Adoption Subsidy," below for a detailed discussion of how a child's private income is handled.

#### A. Rate Structure for Adoption Subsidy

The rate structure of adoption subsidy payments is based on the type of care the child received while in foster care prior to adoptive placement. The rate structure for adoption subsidy is consistent with the premise that any child receiving adoption subsidy is a special needs child who may have greater than usual care needs. The Administration for Children and Families has interpreted Alabama's various foster care rates paid for a child to be considered as supplements to the basic maintenance payment. Therefore, the rate structure for adoption subsidy

payments is consistent with the rates that would have been paid had the child remained in foster care. This rate structure is also applied to state adoption subsidy amounts. The various payment rates for adoption subsidy are discussed below.

1. Regular Subsidy Rate

Payment under the regular rate may be made for children who meet the special needs criteria and for whom it has been determined may be unable to be adopted without the subsidy. This rate is negotiated between the Department and the adoptive parents based on the unmet needs of the child. The amount can **never** exceed the amount the child would have received for foster care maintenance. The adoption subsidy is negotiated by the placing worker. It is approved at the county level for county placements and at the state level for state placements.

2. Level One Difficulty of Care Subsidy

If a child was receiving a “Level One Difficulty of Care” foster care payment prior to the adoptive placement, and meets the special needs requirements discussed earlier, the child may be eligible for a \$50 Level One Difficulty of Care Subsidy in addition to the regular subsidy rate. This rate is negotiated and approved at the county level.

3. Therapeutic Adoption Subsidy Rate

Therapeutic adoption subsidy payments may be available to assist families who are adopting a child with emotional and behavioral needs which require additional therapeutic services to meet the child’s needs and to prevent the likelihood of requiring a more restrictive setting. The Office of Adoption is responsible for approval of a therapeutic adoption subsidy rate. Specific criteria and supporting professional documentation is required in determining the need and eligibility for the therapeutic adoption subsidy rate. The therapeutic need must exist at the time of the adoptive placement or be linked to documented information regarding the child’s background and circumstances prior to adoptive placement. The process of approving therapeutic adoption subsidy is managed in FACTS.

Criteria which must exist to be considered for a therapeutic adoption subsidy rate include:

- Eligibility for State or Federal Adoption Subsidy;
- DSM IV Axis I Diagnosis current to within six months of application;
- Behaviors that may pose a risk of serious harm to self or others through the display of aggressive and/or delinquent activities,

destructiveness, resistance to authority, sexual disturbances and are present at the time of the request;

- The behaviors are exhibited in more than one setting (i.e., home, school, community); and
- Additional services are required to meet the therapeutic needs of the child to include, but not limited to, specialized substitute care, 24 hour a wake supervision, intensive therapy or psychiatric services that focus on therapeutic issues not managed through medication and that routinely requires more than two or more visits per week.

Supporting professional documentation is required for approval of the therapeutic adoption subsidy rate and must be current to within 6 months of the request for the therapeutic adoption subsidy rate. Professional documentation submitted to the Office of Adoption includes, but is not limited to the following:

- Psychiatric or psychological evaluations;
- Therapist progress notes indicating therapeutic efforts and outcomes;
- Treatment Plans;
- Educational records;
- Health records; and
- Multi-Systemic Assessment Tool (MAT) where available.

Children eligible for and receiving state funded therapeutic adoption subsidies are subject to having their continued need for therapeutic adoption subsidy reviewed. A child who receives a state funded therapeutic adoption subsidy may have a periodic review to determine the child's continued need for state funded therapeutic adoption subsidy. Current information and documentation is required to determine whether a child's need for state funded therapeutic adoption subsidy continues to exist. [Code of Alabama 1975 §26-10-26(2)(a)(9)] If supporting documentation no longer substantiates that a child requires therapeutic care, the state funded therapeutic adoption subsidy rate may be changed. The amount of the state funded adoption subsidy rate should be re-negotiated with the adoptive parent(s) and changed to the basic age appropriate adoption subsidy rate based on the child's current needs. The special need that originally established the child as a special needs child for adoption subsidy purposes is not to be reviewed. Refer to Section II A (2) above for a discussion of those special needs. There is no review of children who receive a federal IV-E therapeutic adoption subsidy.

**NOTE: Therapeutic adoption subsidy rate and a counseling subsidy cannot be awarded at the same time, because counseling is a service**

**provided as part of therapeutic services and is included in the therapeutic adoption subsidy rate.**

#### 4. Medically Fragile Adoption Subsidy Rate

Medically fragile adoption subsidy payments may be approved for children who have special health care needs related to chronic physical, developmental, behavioral or emotional conditions as outlined in *Out-of-Home Policies and Procedures* Section V Health/Medical Care. Prior to the adoptive placement, the child's placement worker must make the determination, according to the medically fragile policy, that the child continues to require medically fragile care and that adoption is not likely to occur without this payment.

The Office of Adoption is responsible for reviewing and approving the medically fragile adoption subsidy rate. A request and recommendation from the county worker, along with "current supporting professional documentation" regarding the need for medically fragile adoption subsidy, must be sent to SDHR, Office of Adoption, for review and approval. Current supporting professional documentation includes a letter of professional assessment, completed within the last three months, by the child's attending physician(s) specifying the child's diagnosis and prognosis, and defining what specialized care and medical treatment the child requires. The documentation should specifically explain the extraordinary care required and/or a treatment plan of specialized medical care. The process of approving medically fragile adoption subsidy is managed in FACTS.

Children eligible for and receiving state funded medically fragile adoption subsidies are subject to having their continued need for medically fragile adoption subsidy reviewed. Medically fragile needs may be reviewed periodically and current information and professional documentation is required to determine continued need for state funded medically fragile adoption subsidy. [Code of Alabama 1975 §26-10-26(2)(a)(9)] Once the adoption is final, the adoptive parent(s) may be requested to provide supporting professional documentation from the child's doctor(s) that the child continues to require medically fragile care. If the child no longer needs medically fragile care, as supported by professional documentation, the amount of adoption subsidy payments should be re-negotiated and changed to the appropriate adoption subsidy amount based on the current needs of the child, but not to exceed the age appropriate standard foster care maintenance payment. There is no review of children who receive a federal IV-E medically fragile adoption subsidy.

**NOTE: Medically fragile subsidy rate and a counseling subsidy cannot be awarded at the same time because counseling is a service**

**provided under the medically fragile services and included in the medically fragile adoption subsidy rate.**

**B. Child's Private Income and Amount of Adoption Subsidy Payment**

A child's private income may be from various sources and must be considered when an adoption subsidy agreement is negotiated with the prospective adoptive parents. In most cases, the county department would have been the payee for the child's funds while the child was in foster care. When the adoptive child has private income and there is a foster parent adoption without an adoption subsidy, the county department should continue to receive the child's income and disburse to the pre-adoptive parent per usual procedure until the adoption is final.

The following sections describe procedures for managing specific types of children's private income when there is an adoption subsidy agreement in place.

**1. Supplemental Security Income (SSI) Title XVI**

A child eligible for and receiving SSI benefits meets the definition of a child with special needs relative to adoption subsidy. There are no additional criteria that a child must meet to be eligible for a federal IV-E adoption subsidy when eligibility is based on meeting SSI requirements. In negotiating an adoption subsidy agreement for a child who receives SSI benefits, it is necessary to consider the SSI payments in establishing the child's specific adoption subsidy amount. [42 U. S. C. §673(a)(2)(BB)(bb); SSA 473(a)(2)(A)(ii)]. In all cases where the child receives SSI, a DHR-FCS-2125, Federal (IV-E) Adoption Assistance Agreement – SSI must be completed and signed by the adoptive parents and county DHR Director or designee.

The County Department will continue as the payee for the SSI benefits until the final adoption decree is issued. If the amount of the child's SSI is equal to or greater than the regular adoption subsidy payment rate, a regular adoption subsidy payment is deferred and this is noted on the Adoption Subsidy Agreement. After the adoption subsidy agreement is signed, the County Department will issue from the SSI and directly to the adoptive parent(s) an amount not to exceed the age appropriate regular board rate had the child remained in foster care. The excess SSI funds are used to purchase items for the child. Counties should use all of the SSI funds before finalization of the adoption.

**EXCEPTION:** The adoption subsidy is not deferred for cases in which the Office of Adoption has approved a medically fragile adoption subsidy or therapeutic adoption subsidy for a child who receives SSI. In these cases, there will be a medically fragile or therapeutic adoption subsidy payment authorized in FACTS. The county will issue an amount from the child's SSI to cover the regular adoption subsidy payment until the final adoption decree is issued. The remaining amount necessary to meet the

medically fragile or therapeutic adoption subsidy is made in the manner as other adoption subsidy payments are made.

For children placed by the Office of Adoption, the SDHR placement consultant will provide direction to the county department on what to do with the SSI monthly benefit payment between placement and finalization of the adoption.

After the adoption is final, the child's worker must provide written notification to the Social Security Administration (SSA) that the Department is no longer legally responsible for the child. Any accumulated SSI benefits are to be returned to SSA. The child's worker should provide the child's SSI claim number only (do not provide any other identifying information) to the adoptive parent(s). The adoptive parents should be instructed to apply for SSI benefits for the child in the new adoptive name and that SSA will include the adoptive family's income in the determination of continued eligibility for SSI. The adoptive parents should be instructed to call SSA to schedule an appointment and to determine what documentation will be needed in addition to the final adoption decree to apply for SSI benefits for the child. The adoptive parents are to provide the Department with a copy of the SSI Determination Notice resulting from their application. (NOTE: In most situations, it is expected that a child's SSI will terminate due to the adoptive parents income).

Although the adoptive child's SSI may be terminated at finalization due to the adoptive family's income, the child's Medicaid continues for twelve (12) months after termination of the SSI benefits. The adoptive parents are to be advised that when the child's Medicaid eligibility ends, they should notify the Department in order for the Department to certify federal adoption Medicaid eligibility to the Alabama Medicaid Agency. Certification to Alabama Medicaid Agency is done by completing DHR-FCS-2133 "FEDERAL IV-E ADOPTION SUBSIDY MEDICAID" and requesting in a cover letter that Medicaid benefits be awarded under the federal adoption subsidy program. The DHR-FCS-2133 and cover letter are sent to

Certification Support Division  
Alabama Medicaid Agency  
P. O. Box 5624  
Montgomery AL 36130

The DHR-FCS 2133 and a sample cover letter are located in Online Documents. This process is handled by the county or state worker making the adoptive placement.

2. Social Security (SS) and Veteran's Administration (VA) Benefits



If the child meets the criteria for special needs and receives Social Security or VA benefits, either a federal or a state adoption subsidy agreement may be signed depending upon the child's IV-E eligibility status. (Refer to Section II (B) Categories of Adoption Subsidy Payments). SS and VA benefits can continue after finalization of the adoption and should be considered in negotiations on the amount of the adoption subsidy.

Depending on the amount of the monthly SS/VA benefit, the child may not have received a foster care board payment or foster care Medicaid while in foster care. If this is the case, refer to the section above II(B)(2)(a) for a discussion of state adoption subsidy and Medicaid.

After the adoption is final, the County Department must contact the Social Security Administration or the Veteran's Administration to request termination of the Department as payee. Any accumulated SS/VA funds are disbursed to the adoptive parents. In order to make application for continued benefits, the adoptive parents may be given the child's Social Security claim number or the Veteran's Administration claim number **ONLY**. (Do not provide any other identifying information).

### 3. Other Income

In some instances, a child has private income (e.g., trust fund) which is inaccessible to the child and the adoptive parents until the age of majority is reached. Whether the child would be eligible for state or federal adoption subsidy depends on the exact circumstances. The County Department should contact the Office of Adoption for consultation.

## **IV. ADOPTION SUBSIDY AGREEMENTS**

It is the state or county placement workers' responsibility to inform the child's prospective adoptive parents about the availability of adoption subsidy; to negotiate the amount of the adoption subsidy; and to complete an adoption subsidy agreement. The adoption subsidy agreement should be completed and signed by the adoptive parent(s) and the County Director or Agency Designee at the time of the adoptive placement but must be completed and signed prior to the final decree of adoption. The Adoptive Home Placement Agreement (DHR-FCS-2130) and the adoption subsidy agreement must be signed by the child's worker and the adoptive parents before payments begin. A copy of the signed agreements must be given to the adoptive parent(s) and a copy retained for the biological parent's case record. At the point that FACTS splits the child's adoption case from the biological parent's case and places the child in the adoptive parent's case, a copy of the Adoptive Home Placement Agreement (DHR-FCS-2130) and the adoption subsidy agreement should be scanned and imported into the FACTS

File Cabinet and linked to the adoptive parent(s) case. Adoption subsidy payments are made through the adoptive parent's case

The Termination of Parental Rights/Foster Parent Adoption Protocol and Checklist (DHR-FCS-2132) provides guidelines for completing the adoption subsidy process (See Forms and Instructions).

A. Requirements of Adoption Subsidy Agreements

An adoption subsidy agreement is a written agreement, binding on all parties, between the Department and the prospective adoptive parents. Adoption subsidy agreements must meet the following requirements [Social Security Act Section 475(3); 45CFR1356.40]:

1. Be signed by the adoptive parents and the child's worker at the time of adoptive placement, but no later than the final decree of adoption;
2. Be in effect before any adoption subsidy payments are made;
3. Specify the duration of the agreement;
4. Specify the nature and amount of any payment (including non-recurring adoption expenses), services, and assistance to be provided under such agreement;
5. Specify the child's eligibility for Medicaid and title XX services;
6. Specifies that the agreement remains in effect regardless of the State of residence of the adoptive parents; and
7. Specifies that if the adoptive parents move to another state and needed services specified in the agreement are not available in the other state, the Department is financially responsible for providing the specified service(s).

The County Department negotiates the adoption subsidy agreement; discusses the terms of the adoption subsidy agreement, inclusive of the amount of the adoption subsidy; and completes the subsidy agreement with the foster/adoptive parents. When the Office of Adoption makes a child's adoptive placement, the Placement Consultant discusses the subsidy, negotiates the payment amount, and completes the agreement forms.

B. Actions Necessary Prior To Adoption Subsidy Agreement Negotiations

County Departments must take the following steps prior to negotiating the adoption subsidy agreement with the prospective adoptive parents in order to avoid any misrepresentation. The child's worker must:

1. Establish that the child meets the special needs adoption subsidy criteria. Refer to Section II (A)(2) for a discussion of special needs.

2. Verify the category of eligibility, i.e. federal adoption subsidy or state adoption subsidy;

**Note:** Refer to Section II(B)(1)(c) for a discussion of reasonable efforts language and eligibility for federal adoption subsidy.

3. If the child was not Medicaid eligible while in foster care, the child's worker will need to determine whether the child meets the criteria for state adoption subsidy Medicaid. Refer to the prior section above on State Adoption Subsidy and Medicaid [(Section II (B)(2)(a)]. The child's worker must complete the State Adoption Subsidy Medicaid, DHR-FCS-2134 form and submit to Alabama Medicaid Certification and Support Division. (See Forms and Instructions)
4. If the child was receiving therapeutic or medically fragile foster care payments and it would appear that the child cannot be adopted without the continuation of such payments, the child's worker must request and receive prior approval from the Office of Adoption for subsidy at the medically fragile or therapeutic rate, as well as counseling subsidy or orthodontia subsidy.

#### C. Adoption Subsidy Agreement Forms

Appropriate adoption subsidy forms must be completed and signed by the adoptive parents and the Department representative. A copy of the signed agreement must be given to all parties to the agreement. The following identifies the various adoption subsidy agreements and to whom they apply. These are located in Online Documents Forms and Instructions .

- Federal (IV-E) Adoption Assistance Agreement (DHR-FCS-2123) is used for children who are IV-E eligible (FCMP), inclusive of children approved for medically fragile and therapeutic adoption subsidy who may also be receiving SSI;
- Federal (IV-E) Adoption Assistance Agreement/SSI (DHR-FCS-2125) is used for children who receive SSI and are not approved for the medically fragile or therapeutic rate.
- Alabama Adoption Subsidy Agreement (DHR-FCS-2122) is used for children who are not IV-E eligible and may or may not have received an ACFC foster care board payment.
- Federal (IV-E) Adoption Assistance Agreement (Non-Recurring Expenses DHR-FCS-2124) is used for both IV-E adoption subsidy eligible children and state adoption

subsidy children who are approved to receive a non-recurring payment.

- Adoption Subsidy Agreement Counseling (DHR-FCS-2127) is completed for children who receive outpatient counseling (payment at the Medicaid rate only) and prior approval has been given by the Office of Adoption.
- Alabama Subsidy Agreement Orthodontics (DHR-FCS-2128) is used for children who have medically necessary orthodontia needs and prior approval has been given by the Office of Adoption.

## V. SPECIAL SUBSIDY SITUATIONS

Federal regulations provide for several situations in which a child may continue to be eligible for a federal IV-E adoption subsidy. [Social Security Act Section 473] The following sections address special situations involving adoption subsidies.

### A. Dissolved Adoptions And IV-E Eligibility For Subsequent Adoption Subsidy

A non-applicable child who was eligible for a IV-E adoption subsidy at the time of a prior adoption shall be treated as meeting the requirements for a federal IV-E adoption subsidy in the following situations: [Social Security Act §473(a)(2)(C)(i)]

- (1) After the final adoption decree is issued, the adoptive parent's rights are terminated and the adoption is dissolved; **OR**
- (2) The adoptive parent(s) dies; **AND**
- (3) The child would not meet the IV-E requirements (AFDC requirements of July 1996) for a non-applicable child at the time of the adoption dissolution, but would meet such requirements if the prior adoption were treated as never having occurred; **AND**
- (4) The child meets the criteria for special needs.

In the case of a dissolved adoption involving an applicable child, [see chart in Section II(B)(1)(b) above] the child meets the requirements for a federal IV-E adoption subsidy in the following circumstances: [Social Security Act Section 473(a)(2)(C)(ii)]

- (1) The child is available for adoption because the parental rights of the adoptive parents have been terminated; **or**
- (2) The child's adoptive parents have died; **and**
- (3) The child meets the criteria for special needs.

If an adoption dissolves in Alabama and the child receives adoption subsidy from another state, this state (state of residence) assumes future planning responsibility for the child. A written request should be made to the Office of Adoption for assistance in contacting the other state for the child's background information and any prior IV-E eligibility for adoption subsidy. When and if adoption becomes the plan for a child whose adoption has been dissolved or whose adoptive parents are deceased, a written request must be made to the Office of Adoption to verify the child's prior IV-E adoption subsidy eligibility. In foster parent adoptions that dissolve, the Office of Adoption may not need to be contacted in instances where the child was adopted by foster parents, the family remained in the county of placement, and the dissolution or death took place in that county.

**B. Medicaid Coverage for Children Moving Between States (ICAMA)**

For purposes of Title XIX, Medicaid, any eligible child for whom there is a federal adoption subsidy agreement in effect, regardless whether adoption subsidy payments are being made, is eligible for Medicaid in the State in which the child resides. Should children receiving federal IV-E adoption subsidy move with the adoptive family from the state in which the subsidy agreement was negotiated to

another state, Medicaid will be granted in the new state of residence. For children receiving a state adoption subsidy that includes Medicaid, the state where the subsidy agreement was negotiated is responsible for providing health insurance coverage. This health insurance coverage is usually Medicaid in the new state of residence.

Medicaid is issued in the child's new state of residence through the Interstate Compact on Adoption and Medical Assistance (ICAMA) administered by the Department of Human Resources. The Compact was developed in response to the Adoption Assistance and Child Welfare Act of 1980 and has the force of law within and among the member states. (Most states are member states). Its purpose is to provide uniformity and consistency of policy and procedures when a child who receives federal adoption subsidy or state subsidy with Medicaid moves with the adoptive family to another state. ICAMA ensures that adoptive parents of children with Federal IV-E Adoption Subsidy Agreements and certain children with State Adoption Subsidy Agreements, including Medicaid, receive the medical services and benefits provided for in their adoption subsidy agreement regardless of where they reside in the United States. It facilitates the delivery of benefits and services when families move during the continuance of the adoption subsidy agreement or in cases when the child is initially placed for adoption across state lines.

As a member state of ICAMA, Alabama's ICAMA Compact Administrator is the Office of Adoption. The Office of Adoption is responsible for initiating and processing all forms required by the Compact in order to authorize Medicaid in the state of residence.

When an adoptive family is moving to another state with a child who receives federal subsidy or state subsidy with Medicaid, the adoptive parents (or county worker if the case is open) should provide Family Services Division, Office of Adoption, prior to the move whenever possible, the following information.

- Name(s) of the adoptive parent(s);
- Name(s), DOB(s), SSN(s), race, and gender of the child(ren) involved;
- The current address;
- The new address;
- When the move will occur or is planned;
- Type of subsidy (Federal IV-E Medicaid or State with Medicaid);
- Whether the child(ren) have other third party medical coverage through any program, organization or person
- Source of any other medical coverage (SSI, SSA, Champus, or Private Insurance)

When an adopted child moves into Alabama from another state and is receiving an adoption subsidy from an ICAMA member state, the state holding the adoption subsidy agreement must furnish documentation of the child’s eligibility and the information listed above to SDHR’s Office of Adoption. The Office of Adoption will request that the Alabama Medicaid Agency certify the child for Alabama Medicaid.

C. Adoption Subsidy for Children in a Legal Guardianship Arrangement

In determining the title IV-E eligibility for adoption subsidy payments of a child in a legal guardianship arrangement, the placement of the child with the relative guardian involved and any kinship guardianship payments made on behalf of the child shall be considered never to have been made. (Social Security Act Section 473(a)(2)(D). Federal policy requires states to treat the kinship guardianship and payment as if it never happened and to pursue adoption as a permanency goal for the child. However, the adoptive child must meet all adoption subsidy requirements including “special needs.” To reiterate, if a child has been in a legal kinship guardianship arrangement and that arrangement is dissolved (e. i., legal custody has been awarded to the Department) and the plan for the child is adoption, that child must meet the special needs criteria established for the Adoption Subsidy Program [Refer to Section II (A) for material on special needs requirements].

D. Children Placed By Licensed Child-Placing Agencies (LCPA)

Children for whom a public or private licensed child-placing agency is managing the adoption may be eligible for federal IV-E adoption subsidy if the child meets all requirements (Refer to Section II (B) above). A child placed for adoption by a

public or private LCPA may also be eligible for state adoption subsidy if the child does not meet the federal requirements.

It is the LCPA's responsibility to submit supporting documentation to SDHR's Office of Adoption substantiating that the child meets the adoption subsidy criteria provided in Section II (A) (B) above. Evidence submitted by the LCPA serves as a basis for the decision and the State Department of Human Resources may request and receive additional information from the LCPA. SDHR will negotiate the adoption subsidy agreement with the adoptive parent(s). SDHR will be the administrator of the subsidy agreement. The LCPA shall continue supervisory responsibilities for the child and the family until the final adoption decree has been issued. [Code of Alabama 1975 §26-10-24 (3)(4)]

Children eligible for special needs adoption subsidy, are also eligible for non-recurring adoption subsidy. Non-recurring adoption subsidy payments are available to parents adopting through a public or private LCPA. There must be a signed adoption subsidy agreement in place at the time of or prior to the final decree of adoption. In such cases, claims for reimbursement of non-recurring expenses must be filed with the Department of Human Resources, Family Services, Office of Adoption within 12 months of the date of the final decree of adoption. The following information is needed:

- A written request for reimbursement of payment filed no later than 12 months from the date of the final adoption decree;
- Original paid receipts;
- An itemized bill listing the full name of the child, date of service, and items or services received; and
- A copy of the final adoption decree.

E. Independent Adoptions and Adoption Subsidy

A child (not in the care of DHR or a LCPA) who is independently placed for adoption may be eligible for adoption subsidy if:

- The adoption subsidy criteria listed in Section II (A) (B) is met and
- The child is SSI eligible at the time the adoption petition is filed;  
or
- The child received Title IV-E adoption subsidy in a previous adoption which is now dissolved and the adoptive parents rights have been terminated, or the adoptive parents are deceased and the child continues to meet the criteria for special needs.

The County Department is not responsible for taking any action other than referring the prospective adoptive parents to the Office of Adoption. All other

Adoption Subsidy Policy and Procedures are applicable in independent adoptions seeking adoption subsidy.

F. International Adoptions

The federal and state adoption subsidy programs are intended to move special needs children in the foster care system to permanency. No payment may be made to parents with respect to any child who (1) is not a citizen or resident of the United States; or (2) was adopted outside of the United States or was brought into the United States for the purpose of being adopted; and (3) would be considered a child with special needs. [Social Security Act, Section 473(a) (7)]. Children adopted internationally are also ineligible for state adoption subsidy since they are required to be in the care of DHR or a licensed child-placing agency. The County Department is not responsible for taking any action other than referring the adoptive parents to the Office of Adoption intake consultant.

The only case in which a child, who is not a citizen or resident of the United States and was adopted outside of the United States or was brought into the United States for the purpose of being adopted may be eligible for adoption subsidy payments, either federal or state, is if the initial international adoption of the child by the parents fails and the child is subsequently placed into foster care.

The child would then need to meet the adoption subsidy requirements set forth in this policy. If there is any question regarding eligibility, the Office of Adoption should be contacted.

**VI. PERIODIC REVIEW, CONTINUATION AND OTHER CHANGES, TERMINATION AND APPEAL OF ADOPTION SUBSIDY PAYMENTS**

A. Periodic Review

It is the responsibility of all adoptive parents who are receiving adoption subsidy payments to keep the Department informed of the adoptive child's circumstances which may make the child ineligible for payments or eligible for a different amount of payment. [Social Security Act Section 473(a)(4)(B); Code of Alabama 1975 §26-10-26(1)] In certain circumstances, a periodic review may be necessary.

Code of Alabama 1975 §26-10-26(2)(a)(9) provides that any subsidy payment ends when the child is no longer considered to have the conditions that caused the child to be a special needs child. Only certain adoption subsidy payments may be considered for review under this provision. Only state funded therapeutic and medically fragile subsidies; state funded counseling subsidies extending past one year; state funded subsidy for a child age 19 or over; or an extension of a IV-E subsidy for a child, age 18 up to 21, may be subject to review. The special needs that qualified a child for adoption subsidy (Section II A) are always considered to



exist and are never re-considered in any review of adoption subsidy. The adoption subsidies that may be reviewed are addressed below.

1. Review of State Funded Medically Fragile or State Funded Therapeutic Adoption Subsidy Payments

State funded therapeutic or medically fragile adoption subsidies may be reviewed periodically by the Department. The Office of Adoption will send review/report forms to the adoptive parent(s) requesting that the adoptive parent(s) inform the Department of changes that may impact the adoption subsidy payments. These forms should be signed and returned to the Office of Adoption stating that the child remains in the adoptive parents' care and that the adoptive parent(s) continue to provide support and specialized services to the child. Professional documentation from the child's doctors and/or therapist specifying the child's diagnosis, prognosis and the specialized care or services the child continues to require must accompany the returned forms. The Department may confirm the accuracy and veracity of the report [Code of Alabama 1975 §26-10-26(1)(2)(a)(9)]. If the information received by the department indicates a substantial change in the conditions that caused a need for state funded therapeutic or medically fragile adoption subsidy, from when the adoption subsidy agreement was signed, the department may, after notice to the adoptive parent(s), modify the state funded adoption subsidy agreement, services, subsidy payment or any combination of these [Code of Alabama 1975 §26-10-26(1)].

If the above documentation is not received, the state funded medically fragile or therapeutic adoption subsidy payment is subject to being reduced to the regular adoption subsidy rate. In these situations, a parent should receive notice of any change in the rate and may request a review based upon a substantial change in the child's condition or circumstances since the last adoption subsidy agreement was signed. A change in the state funded therapeutic or medically fragile adoption subsidy will not impact the age appropriate regular adoption subsidy that is based on the age appropriate foster care maintenance payment.

2. Review of Counseling Services Extending Past One Year

Professional documentation, which supports and verifies the need to continue state funded counseling subsidy beyond one (1) year, must be submitted by the adoptive parents. In addition to this documentation, there must be verification that no Medicaid provider is within reasonable proximity to the child and family.

3. Review of a State Subsidy Past a Child's Nineteenth Birthday

For any extension of state subsidy for a child age 19 or over, during the month the child turns 19, and annually thereafter, the Office of Adoption will send review/report forms to the adoptive parent(s) requesting that the

adoptive parent(s) inform the Department if the child remains in the adoptive parents' care and is still attending high school. The adoptive parents must include supporting written documentation on the school or school system's letterhead verifying enrollment and the child's anticipated date of graduation.

4. Review of IV-E Adoption Subsidies for Children Age 18 Up to Age 21

For any extension of IV-E adoption subsidy for a child age 18 up to 21, during the month the child turns 18, and annually thereafter, until the child reaches 21, the Office of Adoption will send review/report forms to the adoptive parent(s) requesting that the adoptive parent(s) inform the Department if the child remains in the adoptive parents' care and continues to meet criteria for the extension of IV-E adoption subsidy as described in Section B below "Continuation of IV-E Adoption Subsidy Payments Age 18 Up to Age 21." The form should be signed and returned to the Office of Adoption stating that the child remains in the adoptive parents' care and support. The adoptive parents must include supporting professional documentation verifying how the child continues to meet one of the criteria listed in Section B.

B. Continuation of Adoption Subsidy Payments And Other Changes

1. Continuation of IV-E Adoption Subsidy Payments Age 18 Up to Age 21

Alabama has elected to continue adoption subsidy payments and Medicaid for certain IV-E eligible children after age 18 and up to 21 years who meet certain criteria. [Code of Alabama 1975 §26-10-26(2)(b)] SDHR, Office of Adoption, is responsible for working with adoptive parents to determine whether federal IV-E adoption subsidy will continue after age 18 and up to 21. In order for federal IV-E adoption subsidy payments to continue after age 18 and up to age 21, professional documentation must be submitted to the Office of Adoption that the child meets one of the two following criteria:

- a. The child is determined by a doctor to be physically or mentally disabled; or
- b. The adoption subsidy agreement was entered into after the child attained the age of 16 and one of the following criteria applies to the child.
  - Currently enrolled in high school; or
  - Participating in classes in preparation for their GED; or
  - Currently enrolled in college or university, full-time or part-time; or
  - Enrolled in a vocational or trade school; or
  - Participating in Job Corps; or

- Participating in classes on resume writing and interview skills; or
- Employed at least 80 hours per month. (youth could be employed part time or full time, at one or more places of employment); or
- Youth is incapable of participating in any of the above described education or employment activities due to a medical condition; or
- Other is included as a means of capturing exactly what activity the child may be involved in within the federal requirements pertaining to education and employment [SS Act §475 (8)]. When selected in FACTS, a text box is provided for explaining the activity.

**NOTE: Alabama has taken the broad federal criteria and provided a more detailed listing of activities that can fall within the federal criteria to assist staff and adoptive parents.**

- c. FACTS generates adoption subsidy payments after the adoption subsidy has been approved at SDHR. FACTS does not automatically stop adoption subsidy payments when a child reaches the age of 18.

An alert is provided to the Office of Adoption that a IV-E eligible child is nearing the age of 18 and a determination of whether to continue the adoption subsidy payment, based on each child’s own circumstances, is needed. When the Office of Adoption receives this alert, a form communication letter is sent to the adoptive parents requesting information about the circumstances of the adoptive child. If the adoptive child meets one of the criteria (See criteria above) for continuing adoption subsidy payments, the adoption subsidy payments will continue. This procedure will be used to track IV-E eligible children who qualify to have IV-E adoption subsidy continue after age 18 up to age 21.

2. Continuation of State Adoption Subsidy Payments Age 19 Up to 21

Alabama has elected to continue adoption subsidy payments, and if applicable Medicaid, for certain state eligible children after age 19 and up to 21 years provided the child is still in high school with a goal of graduation. Documentation on school letterhead that the child is enrolled in a viable high school program with a goal of graduation and the date of the anticipated graduation must be submitted to the Office of Adoption annually after the child’s 19<sup>th</sup> birthday. State adoption subsidy will continue until the child graduates from high school or attains the age of 21, or is no longer enrolled in high school, whichever come first.

3. Other Changes Impacting Adoption Subsidy Payments

Increase in adoption subsidy payment amounts due to a child’s age should be made annually, as are any across the board increases in the Department’s

adoption subsidy rates as granted by the legislature. Adoptive parents seeking an adjustment to the amount of subsidy payments or termination of adoption subsidy should be referred to the Office of Adoption, adoption subsidy specialist.

When there has been a change of address of the adoptive parents and child, a request for a change of address should be made immediately in writing or through email to the Office of Adoption, as adoption subsidy payments are not forwarded.

#### C. Termination of IV-E Adoption Subsidy Payments

Once a child has been determined eligible for a IV-E adoption subsidy, the child remains eligible and the adoption subsidy payment continues, unless one of the following circumstances occur: [Social Security Act §473(a)(4)(A)]

- the child reaches the age of 18, unless the child meets the criteria addressed above in “Continuation of IV-E Adoption Subsidy Payments After Age 18;” [Code of Alabama 1975 §26-10-26(2)(a)(1); 26-10-26(2)(b)] or
- the child, due to a documented mental or physical disability, continued to receive IV-E adoption subsidy past age 18, but has now attained the age of 21.

Other circumstances that can lead to termination of a IV-E adoption subsidy are:

- the adoptive parent(s) are no longer legally responsible for the support of the child who has not attained 18 years of age [Social Security Act §473 (4)(A)(i)(II)(ii) [42 U. S. C. 673]; or
- the child is no longer receiving support from the adoptive parent(s) [Social Security Act §473 (4)(A)(i)(II)(iii) [42 U. S. C. 673]; or
- the child becomes legally emancipated; or
- the child dies; or
- the child’s adoption is terminated, either through disruption before finalization or dissolution after finalization; or
- the adoptive parent(s) request termination of the adoption subsidy agreement; or
- the child is no longer the legal dependant of the adoptive parent(s), i.e., the child has been emancipated, married, or joined the Armed Forces.

#### D. Termination of State Adoption Subsidy Payments

Circumstances for termination of state adoption subsidy payments varies from those allowed in IV-E adoption subsidy payments. [Code of Alabama 1975 §26-10-26(2)(a)]. A child receiving state adoption subsidy payments remains eligible

and the adoption subsidy payments continue, unless one of the following circumstances occurs:

- The child attains age nineteen (19) years (age of majority). If the child is still in high school at age 19, the state adoption subsidy may continue until the child graduates from high school, is no longer enrolled in high school, or attains the age of twenty-one (21), whichever comes first.
- the adoptive parent(s) are no longer legally responsible for the support of the child. (Legally responsible is “age 19 unless there is a court order extending child support past the age of 19”);or
- the child is no longer receiving support from the adoptive parent(s); or
- the child dies; or
- the child’s adoption is terminated, either through disruption before finalization or dissolution after finalization; or
- the adoptive parent(s) request termination of the adoption subsidy agreement; or
- the child is no longer the legal dependant of the adoptive parent(s), i.e., the child has been emancipated, married, or joined the Armed Forces.

E. Appeal and Fair Hearing

Any subsidy decision where an application is denied or an adoption subsidy is reduced or terminated, and the placement agency or the adoptive parents deem such action adverse to the child; the applicant or parent recipient shall have the right to request in writing a fair hearing. Such request must be received within 30 days of the date of notice regarding the decision of the Department. [Code of Alabama 1975, §26-10-29(2)]. The hearing will be in accordance with the Alabama Administrative Procedures Act.

**VII. FACTS PROCEDURES FOR MAKING REGULAR ADOPTION SUBSIDY PAYMENTS AND OTHER PAYMENTS**

A. Authorizing Regular Adoption Subsidy Payments

Regular adoption subsidy payments are authorized through FACTS. County departments are responsible for authorizing adoption subsidy payments when the eligible child enters a pre-adoptive placement. Steps in FACTS to authorize adoption subsidy payments for pre-adoptive placements are outlined in the following discussion. All of the steps must be taken in order to successfully authorize the adoption subsidy payment. If counties experience problems in authorizing adoption subsidy payments, contact the FACTS Helpdesk.

1. FACTS' Steps to Exit/Discharge Child from Foster Care Placement to Pre-Adoption Placement

PATH>Case>Placement>List of Clients>Select Client>Place>List of Placement Episode Screen

- Select current placement from the List of Placement Episode Screen;
- If the current Foster Care placement is a "Paid" placement, Click "Exit" on the shortcut bar. If it is a non-paid placement, Click "More" on the shortcut bar and click Non-Paid;
- Enter Exit date and Exit Time;
- Exit Reason: (Worker must use Exit Reason Change in Placement Type-no movement for a foster parent adoption.) For non-foster parent adoption use exit reason Adoptive Placement (Permanent Custody)AFCARS;
- SAVE. This concludes the first step.

After the child has been exited/discharged from the foster care placement in FACTS, the child will need to be placed in a pre-adoptive placement in FACTS.

2. FACTS' Steps to Place a Child in a Pre-Adoptive Placement

To insure that adoptive parents and foster parents receive their monthly board payments when children are placed in a pre-adoptive home, the county placement worker must complete the following steps in FACTS.

PATH>Case>Placement>List of Clients>Select Client>Place>List of Placement Episode Screen

- Select New from the List of Placement Episode Screen;
- Select radio button Non Paid Placement;
- Select OK;
- Complete the Non-Paid Placement Screen;
- Type of Care-Pre Adoptive Home;
- Service-Placement /Adoptive-Pre Adoptive-CW;
- SAVE. This concludes the second step.

After the placement worker has exited/discharged the child from the foster care placement and also placed the child in a pre-adoptive placement in FACTS, the placement worker must then complete the Service Log/Service Authorization Screen.

3. FACTS' Service Log Screen/Service Authorization Screen Completion

With the service of Adoption Subsidy selected, the Service Log Screen/Service Authorization Screen generates the monthly adoption subsidy payment to the pre-adoptive parent(s). The steps below must be followed in order to avoid a disruption in the foster/adoptive parents' monthly payment.

Select Service (Adoption Subsidy)

- Status (Service Initiated/in Progress);
- Enter Frequency: Monthly Units: (not applicable for subsidy);
- Duration: other;
- Enter Estimated Begin Date;
- Enter Estimated End Dates;
- Actual Begin Date-(The Actual Begin Date must be the same date used on Placement Exit screen when exiting child from foster home placement. If different dates are used, pre-adoptive parent will experience a disruption in payment).

Continue to the Provider Tab.

Provider Tab

- Choose Provider Radio Button “Find”;
- Select the Provider;
- SAVE
- Request Approval by supervisor.

Service Log/Service Authorization Screen **MUST** be **APPROVED** at the county level for payment to be generated. The Adoption Subsidy Screen **MUST** be approved by SDHR with an eligibility determination of “eligible” in order for the pre-adoptive parent(s) to receive the adoption subsidy payments. Therefore, both the Service Log/Service Authorization Screen and the Adoption Subsidy Screen **MUST** be completed before any adoption subsidy payments are generated.

**B. Terminating Subsidy Payments in Disruption Situations**

When a pre-adoptive placement disrupts prior to finalization and the child is removed from the pre-adoptive placement, the child’s worker must terminate the adoption subsidy payment. When the pre-adoptive placement disrupts prior to finalization, steps in FACTS must be taken to terminate the child’s adoption subsidy payment.

Discharge child from Pre-Adoption Placement

- Select current placement (Show)
- Select current placement from the List of Placement Episode Screen
- Select “More” on the shortcut bar and click Non-Paid
- Enter Exit date and Exit Time
- Exit Reason: (Adoption Disruption)
- SAVE. This concludes the first step.

Worker must “End Date” the adoption subsidy service on the Service Log/Service Authorization Screen.

PATH>Case>Service>List of Clients> Select Client>Show>Service Log  
Service Log-Service Offered/Delivered Screen

- Adoption Subsidy Service- Actual End date - Enter the date the child was removed from the pre-adoptive placement in this filed.

C. Other Payments

Other payments such as non-recurring expenses, counseling services and orthodontia services are authorized in FACTS at SDHR, Office of Adoption. Refer to the sections of this policy that address each of these types of subsidies for instructions necessary for approval and payment.

**VIII. MEDICAID COVERAGE FOR CHILDREN ADOPTED BY FOSTER PARENTS RECEIVING SUBSIDY**

Alabama Medicaid Agency(AMA) requires third party insurance to be used as the primary insurance prior to Alabama Medicaid being used to pay for services. When workers complete a foster parent adoption, they must also complete the third-party liability information sheet and forward it to Alabama Medicaid Agency. Additionally, worker should attach a copy of the court order and notice of the child to receive Medicaid services.