

Bulletin

March 4, 2008

Minnesota Department of Human Services -- P.O. Box 64941 -- St. Paul, MN 55164-0941

OF INTEREST TO

- County Directors
- County Social Services Supervisors and Staff
- County Title IV-E Coordinators
- Tribal Social Services Supervisors and Staff
- Tribal Title IV-E Coordinators

ACTION/DUE DATE

Effective immediately.

EXPIRATION DATE

March 4, 2010

Revised Title IV-E Foster Care Definitions

TOPIC

New definitions of Title IV-E terms.

PURPOSE

To provide clarification of Title IV-E terms, removal date and AFDC eligibility month.

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SIGNED

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Background

As a result of the federal Title IV-E Foster Care Eligibility Review in June 2007, the Department of Health and Human Services' Administration for Children and Families (ACF) identified areas of concern that included Minnesota's definition of Title IV-E terms, including the removal date, and the AFDC eligibility month. ACF recommended that the Minnesota Department of Human Services (DHS) implement revisions and provide information and training to all county social services agencies regarding these areas. DHS provided training on January 15 and 16, 2008, regarding these revised terms.

Definition of Removal Date

DHS had been referring to *removal date* as the date when responsibility for supervision and care of the placement was transferred to the county or tribal social services agency. The rationale for this definition was that only when legal responsibility is transferred to the county or tribal social services would that agency have any involvement with the placement.

The federal staff defined the *removal date* as the day the child was physically removed from the home, whether by law enforcement hold or other means. Furthermore, the physical removal must **coincide** with a judicial determination that remaining in the home is contrary to the welfare (CTW) of the child. This determination must be in the first court order authorizing removal of the child. This is one of the federal protections that ensures removals are not made without sufficient reason to believe that the child is at risk. The transfer of responsibility for supervision and care may happen later.

Definition of AFDC Eligibility Month

To be Title IV-E eligible, a child must meet the financial need and deprivation requirements of the Aid to Families with Dependent Children (AFDC) program in effect in June 1996. The requirements must be met based on the circumstances that existed in the home of the specified relative from which the child was removed during the month court proceedings leading to the child's removal were initiated or the Voluntary Placement Agreement was signed.

To determine the *AFDC eligibility month*, DHS had been using the month the original court petition was filed, even if that petition did not result in a placement, or it initiated removal proceedings for a different foster care episode when there was more than one foster care episode associated with the child.

The federal definition required that, when there are multiple physical removals and placement episodes of a child, the *AFDC eligibility month* is determined using:

- Month the petition related to the most recent physical removal was filed, or
- Date of the court hearing that resulted in an order for the current removal, if a new petition is not filed, or is filed after the court hearing.

A new AFDC eligibility determination must be calculated for each foster care placement episode if there are multiple episodes associated with a child.

Within Six Months of the AFDC Eligibility Month: If a child was not removed from the specified relative, the child must have been living with the parent or specified relative within six months of the month of the Voluntary Placement Agreement or the filing of the removal petition. The physical removal from an interim caretaker may satisfy the removal requirement. Under these circumstances, the child is considered to have been living with and removed from the home of the specified relative who is the basis of the judicial (legal) removal, or who enters into the Voluntary Placement Agreement with the county agency. AFDC eligibility must be determined for the specified relative as if the child had been living in that home in the month of the initiation of court proceedings or the Voluntary Placement Agreement.

County Agency Responsibilities

County agencies may have cases in which the AFDC eligibility month will need to be re-determined for the **current or most recent** placement episode. For cases in which a child is physically removed from a person who is not the legal caregiver, the requirement that the child lived with the specified relative within six months of the placement is counted from the AFDC eligibility month.

Training/Technical Assistance Follow-up

Upon request, the Minnesota Department of Human Services' regional eligibility determination trainers (EDTs) will assist counties to review case files to determine if it is necessary to correct the removal date and/or recalculate AFDC eligibility based on the correct eligibility month. The EDTs can be reached at:

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DHS's Title IV-E foster care staff provided statewide training regarding these changes on January 15 and January 16, 2008. Technical assistance will be provided over the next year directed at again achieving 95 percent substantial compliance in the 2010 federal review.

See Attachment I for case examples which help to clarify the revised terms.

Questions or Concerns

If you have questions or concerns regarding this bulletin, contact Fran Felix, (651) 431-4386, or fran.felix@state.mn.us.

Special Needs

This information is available in other forms to people with disabilities by calling (651) 431-4671 (voice). TDD users can call the Minnesota Relay Service at 711 or 1 (800) 627-3529. For the Speech-to-Speech Relay Service, call 1 (877) 627-3848.

Eligibility Month/Removal Date

Examples for Court Ordered Placements

Example 1

- CHIPS petition requesting removal filed 8/31/07
- Court hearing & physical removal 9/01/07

Eligibility month = 8/07 Removal date = 09/01/07

CHIPS petition initiated the court hearing which ordered the physical removal of the child, therefore the CHIPS removal petition filing date sets the AFDC eligibility month.

Example 2

- Police hold & physical removal 8/31/07
- Petition filed requesting removal; hearing held and
removal ordered same date 9/06/07

Eligibility month = 9/07 Removal date = 08/31/07

The CHIPS removal petition was filed on 9/6/07 and the court ordered a physical removal based on this petition.

Example 3

- CHIPS or delinquency petition filed requesting removal 9/15/07
- Court hearings were scheduled, but continued until 09/20/07
then continued to 10/05/07; then continued to 10/20/07; then
continued again until
First court hearing held; court orders physical removal &
includes BI/CTW statement. 11/05/07

Eligibility month = 9/07 Removal date = 11/05/07

No physical removal until 11/05/07; therefore IV-E eligibility will not begin until there is a removal. AFDC eligibility month remains tied to CHIPS/delinquency petition filed on 9/15/07, because initial court order related to this petition resulted in physical removal of child.

Example 4

- Petition filed requesting removal 2/15/07
- Physical removal 2/20/07
- Court removal hearing 2/20/07
- Review hearing held, child returned home under protective supervision; placement ends. 3/31/07
- Social worker verbally requests a protective supervision review hearing; hearing held & court orders physical removal of child; order includes BI/CTW language. 5/01/07
- Removed again 5/01/07

1st placement episode: Eligibility month = 2/07 Removal date = 02/20/07

The removal petition resulted in a court ordered physical removal, therefore the petition filing date establishes the AFDC eligibility month.

2nd placement episode: Eligibility month = 5/07 Removal date = 05/01/07

Agency lost legal responsibility when child returned home on 3/31/07. When child is subsequently removed on 5/1/07, date of court hearing at which physical removal ordered is used to establish AFDC eligibility month because there is no new removal petition filed.

Example 5

- Petition filed requesting removal 7/10/07
- The 1st court hearing orders physical removal and BI/CTW; child placed 7/15/07
- Trial Home Visit court ordered 7/30/07

- Returned to foster home

10/10/07

Eligibility month = 7/07 Removal date = 07/15/07

There is no need to re-determine AFDC eligibility month, as this is considered one continuous placement episode.

Example 6

- CHIPS petition filed 7/01/07
- Court hearing transferring custody, BUT
child remains in home on trial home visit. 7/19/07
- Review hearing- order states child will remain home
on a trial home visit but also states the child can be
removed from the mother's care at any time without
further order of the court, if certain conditions are not met. 8/16/07
- Child physically removed; placed in foster care. 9/25/07

Eligibility month = Not Applicable

This is an ineligible Title IV-E case because best interest/contrary to the welfare statement and the physical removal do not coincide.

Example 7

- Delinquency petition filed 8/17/06
- Court orders psych evaluation 10/17/06
- Disposition hearing held; probation ordered;
child not placed. 11/05/06
- Probation continued twice 2/07/07 and 5/07/07
- Probation violation 8/06/07
- Court hearing; orders physical placement;
includes BI/CTW language. 8/10/07

Eligibility month = 8/07 Removal date = 08/10/07

AFDC eligibility month tied to date of court hearing on 8/10/07. Petition filed 8/17/06 did not result in physical placement; resulted in probation, and no new petition filed.

Example 8

- CHIPS petition filed; No request for physical removal. 9/16/07
- Amended petition filed requesting physical removal. 10/10/07
- Court hearing held; court orders physical placement
& includes BI/CTW determination. 10/10/07

Eligibility month = 10/07 Removal date = 10/10/07

Original petition did not result in a physical removal; amended petition and subsequent court hearing resulted in the physical placement of the child that coincided with BI/CTW determination.

Eligibility Month/Removal Date

Example for Voluntary Placements

Example 1

- VPA signed with all signatures 9/24/07
- Physical placement occurs 10/01/07

Eligibility month = 9/07 Removal date = 10/01/07

When determining AFDC eligibility month for a voluntary placement, continue to use the month all required signatures are obtained on the voluntary placement agreement.