

## TITLE IV-E FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM

### ***What is Title IV-E?***

Title IV-E of the Social Security Act provides federal matching funds to help states pay for foster care placements for children who meet federal eligibility criteria.<sup>1</sup>

The federal share called “federal financial participation” (FFP) pays part of the cost of foster care maintenance payments made by the state for the support of eligible children living in foster family homes or child care institutions. FFP is based on each state’s Medicaid matching rate and ranges from 50% to 83% of the foster care maintenance payments.<sup>2</sup>

In addition, the federal government pays 50% of the cost of administering the Title IV-E program (such as salaries of caseworkers and administrators, office space, etc.) and 75% of the training costs associated with the program.<sup>3</sup>

### ***Does Title IV-E provide assistance for youth in the juvenile justice system?***

Yes. Youth who have been adjudicated delinquent qualify for IV-E if they meet all of the federal foster care criteria and are placed with a foster family or in a child care institution that meets the definition in federal law.<sup>4</sup>

### ***What are the federal foster care criteria?***

Children are eligible for IV-E foster care benefits if:

- (1) the youth is removed from home pursuant to:
  - (a) a voluntary placement agreement **or**
  - (b) a judicial determination to the effect that:
    - (i) continuation in the home would be contrary to the welfare of the child, **and**

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<sup>1</sup> 42 U.S.C. §§ 670, *et seq.*

<sup>2</sup> 42 U.S.C. § 674(a)(1). Medicaid FFP rates are published in the *Federal Register*. For FFP rates effective October 1, 2005 to September 30, 2006, see 69 Fed. Reg. 68370 (November 24, 2004), and for FFP rates effective October 1, 2006 to September 30, 2007, see 70 Fed. Reg. 71856 (November 30, 2005). Links to current and past rates are available at: <http://aspe.hhs.gov/health/fmap.htm>.

<sup>3</sup> 42 U.S.C. § 674(a)(3).

<sup>4</sup> United States Department of Health and Human Services, Administration for Children & Families, *Child Welfare Policy Manual*, (hereafter “Child Welfare Policy Manual”) Section 8.3A.1. Available at: [http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/index.jsp](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/index.jsp)

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- (ii) reasonable efforts have been made to prevent removal,
- (2) the state child welfare agency, or a local public agency that has an agreement with the state child welfare agency, is responsible for the youth's care,
- (3) the youth has been placed in a foster family home or child-care institution as defined by federal law, **and**
- (4) the youth meets AFDC eligibility criteria.<sup>5</sup> (Emphasis added.)

### ***What qualifies as a judicial determination that continuation in the home would be contrary to the youth's welfare?***

The law requires a “judicial determination **to the effect that** continuation ... would be contrary to the welfare of the child.”<sup>6</sup> (Emphasis added.) Although some courts use the exact language of the statute, these specific words are not required.

However, the determination must relate to whether continuation in the home would affect the child's welfare. For example, the Administration for Children and Families (ACF) says a finding that the child would run away or that a child poses a threat to the community would not meet the judicial determination requirement. However, a finding that the child is a threat to himself would qualify.<sup>7</sup>

### ***What qualifies as a child care institution?***

A child care institution must be licensed or approved by the state and may **not** include:

- (1) a public child care institution for more than 25 children, or
- (2) detention facilities, forestry camps, training schools, or other facilities operated **primarily** for the detention of children determined to be delinquent.<sup>8</sup> (Emphasis added.)

### ***What is a facility “operated primarily for the detention of children who are determined to be delinquent?”***

The determination will be made on a case by case basis. According to ACF the following questions are relevant:

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<sup>5</sup> 42 U.S.C. § 672.

<sup>6</sup> 42 U.S.C. § 672(a)(2)(A)(ii).

<sup>7</sup> Child Welfare Policy Manual, Section 8.3A.1.

<sup>8</sup> 42 U.S.C. § 672(c).

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(a) Who operates the facility? (b) For what purposes does it exist? (c) Is it licensed or approved? If so, for what use and by whom? (d) From whom does it receive its major financial resources? (e) What type of children are residents? (f) Would it be viable without the need to house children adjudicated delinquent? (g) Is the facility physically restrictive? In addition to these questions, the Department would look to the specific facts of a given situation.<sup>9</sup>

### ***Does placement in a detention facility disqualify a youth for IV-E?***

Not necessarily. The youth will not be eligible for IV-E while in the detention facility but may be eligible once he or she is released if all other eligibility criteria are met.<sup>10</sup>

### ***What are the benefits of Title IV-E for youth in the juvenile justice system?***

IV-E eligible youth are entitled to foster care maintenance payments made on their behalf and are categorically eligible for Medicaid.<sup>11</sup> Youth who are in foster care on their 18<sup>th</sup> birthday qualify for transitional Medicaid in those states that have elected this option.<sup>12</sup> Youth who are 16 or older are entitled to an independent living plan.<sup>13</sup> Former foster youth are also eligible for transitional housing, education and training vouchers, and other transitional benefits under the Chafee Foster Care Independence Act.<sup>14</sup>

In addition, Title IV-E provides protections to reduce unnecessary out-of-home placements and support good case planning and regular monitoring of out-of-home placements.

Title IV-E requires states, with some exceptions, to make reasonable efforts to prevent or eliminate the need for out-of-home placement and to make it possible for the youth to safely return home if removal is necessary.<sup>15</sup>

States must develop case plans and case review systems for each child.<sup>16</sup> The case plan must, among other things, assure the youth receives safe and proper care; describe services to be provided to the youth, the youth's parents, and the foster care provider to facilitate return home and address the needs of the youth while in care; include the youth's health and education records; and, for youth 16

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<sup>9</sup> Child Welfare Policy Manual, Section 8.3A.8a.

<sup>10</sup> See, Child Welfare Policy Manual, Section 8.3A.4.

<sup>11</sup> 42 U.S.C. §§ 672(h), 1396a (a)(10)(A)(i)(I). State-by-state information is available from the National Child Welfare Resource Center for Youth Development.  
[http://www.nrcys.ou.edu/nrcyd/state\\_pages.shtml](http://www.nrcys.ou.edu/nrcyd/state_pages.shtml)

<sup>12</sup> 42 U.S.C. § 1396a (a)(10)(A)(ii)(XVII).

<sup>13</sup> 42 U.S.C. §§ 671(a)(16) & 675(1)(D), see also 42 U.S.C. § 677.

<sup>14</sup> 42 U.S.C. § 677.

<sup>15</sup> 42 U.S.C. § 671(a)(15).

<sup>16</sup> 42 U.S.C. § 671(a)(16).

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years or older, describe programs and services that will help prepare the youth for independent living.<sup>17</sup>

The case review system must ensure that the youth has a plan:

designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home consistent with the best interest and special needs of the child.<sup>18</sup>

If the youth is placed out of state, the state must provide reasons for the placement and visit the youth periodically or arrange for courtesy visits and reports by the state where the youth is placed.<sup>19</sup>

The state must also review the youth's case at least every six months and provide other procedural protections.<sup>20</sup>

Because Title IV-E requires facilities to be licensed or approved by the state, youth may have additional rights under state licensing requirements, including protections related to basic health and safety and personal rights.

### ***What are benefits of Title IV-E for the juvenile justice system?***

Title IV-E provides federal resources to help pay the cost of placements, administration, and training for agency staff and providers of care.<sup>21</sup> This funding can help to expand the range of available placement options for youth who cannot live at home. For example, Title IV-E funds can support relative, foster family, and group home placement. States can use Title IV-E funding to encourage the development of evidence based practices, such as Multidimensional Treatment Foster Care (MTFC)<sup>22</sup> that provide effective treatment and reduce unnecessary incarceration.

In addition, some states have obtained Title IV-E waivers to permit the use of Title IV-E funds for youth who remain at home.<sup>23</sup> Some states have used Title IV-E and Medicaid funding to provide effective alternatives to incarceration through programs, such as Wrap Around programs that combine comprehensive case management and treatment services in a family setting.

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<sup>17</sup> 42 U.S.C. § 675(1).

<sup>18</sup> 42 U.S.C. § 675(5)(A).

<sup>19</sup> *Id.*

<sup>20</sup> 42 U.S.C. § 675(5)(B), *et seq.* See also, 42 U.S.C. § 675(5)(C).

<sup>21</sup> See, Child Welfare Policy Manual, Section 8.

<sup>22</sup> <http://www.mtfc.com>. <http://www.evidencebasedprograms.org/Default.aspx?tabid=34>

<sup>23</sup> Bruce Kamradt, *Funding Mental Health Services for Youth in the Juvenile Justice System: Challenges and Opportunities*, National Center for Mental Health and Juvenile Justice (December 2002). [http://www.ncmhjj.com/pdfs/publications/Funding\\_Mental\\_Health\\_Services.pdf](http://www.ncmhjj.com/pdfs/publications/Funding_Mental_Health_Services.pdf)