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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 98 LCM-8

Date: February 5, 1998

Division: Quality Assurance
and Audit

TO: Local District Commissioners

SUBJECT: Revisions To Title IV-E Eligibility Criteria

ATTACHMENTS: NONE

I. PURPOSE

The purpose of this memorandum is to inform social services districts of revisions in the Title IV-E eligibility documentation requirements resulting from the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and subsequent technical amendments to that Act. The Department advised social services districts of the revision in Title IV-E eligibility documentation requirements with the release of 97 LCM-38 and indicated there would be additional releases on this subject. This memorandum is the second in a series which discusses federal eligibility requirements for Title IV-E foster care and adoption assistance since the passage of PRWORA.

II. BACKGROUND

Title IV-E of the Social Security Act was established by Congress to replace the Aid to Families with Dependent Children Foster Care (AFDC-FC) program. The intent of both the Title IV-E and AFDC-FC programs has been to provide coverage for children who would be eligible for ADC assistance except for the fact that the child was removed from his or her home and placed into foster care by means of a court order or voluntary placement agreement. Congress also added adoption assistance under Title IV-E for special needs children who would be eligible based on either AFDC, Title IV-E or receipt of or eligibility for SSI.

With the passage of PRWORA, Congress abolished the AFDC program as of October 1, 1996. As you were advised in 97 LCM-38, the link between Title IV-E and the former AFDC program was maintained under PRWORA for all cases coming into foster care after October 1, 1996. This was to be accomplished by the use of a mandated "AFDC lookback date" which was to be June 1, 1995. Since the release of 97 LCM-38, Congress has amended PRWORA and, among other issues, revised the "AFDC lookback date" to July 16, 1996 in order to conform the Title IV-E "AFDC lookback date" to the Title XIX (Medicaid) "AFDC lookback date".

The Department of Family Assistance (The Department) has determined that there has been no significant program change in the policy and procedures used in determining AFDC eligibility from July 16, 1996 through October 31, 1997. Consequently, you were advised in 97-LCM-38 to continue to determine Title IV-E eligibility using ADC standards still in effect at the time of placements occurring since December 4, 1996, the date of New York's plan approval under PRWORA by the US Department of Health and Human Services.

The Department issued 97 ADM-20, "Family Assistance Program" on October 24, 1997 which discusses the categorical changes required by Welfare Reform. On October 31, 1997, the Department released 97-ADM-23 "Public Assistance (Family Assistance/Safety Net Assistance) Changes Resulting from the Welfare Reform Act of 1997" which advised social services districts of changes in budgeting requirements for the programs of public assistance administered by them. For purposes of Title IV-E eligibility determinations, the changes in the ADC and PG-ADC/PG-HR programs are significant. As of November 1, 1997, the implementation date of those changes, social services districts can no longer use the Temporary Assistance to Needy Families (TANF) determinations of eligibility to automatically meet the AFDC financial criteria for Title IV-E.

III. RECOMMENDED ACTIONS TO BE TAKEN

In order to ensure meeting the mandate for determining and documenting the AFDC component of Title IV-E eligibility for placements into foster care made on or after November 1, 1997, social services districts need to implement the following procedures to meet the AFDC standards in effect on July 16, 1996. The failure to do so will threaten social services district eligibility for federal Title IV-E reimbursement for such foster care placements.

FINANCIAL ELIGIBILITY

Social services districts can no longer have assurance that the practice of using WMS screen prints reflecting a child's active status in a TANF case in the month of removal from the home will meet documentation of AFDC financial eligibility criteria for purposes of Title IV-E eligibility for foster care and adoption assistance (subsidy) cases.

Family in receipt of TANF benefits--When a child placed into foster care has been removed from a parental home which is in receipt of TANF benefits, social services district staff are advised to call up the existing TANF ABEL Budget and then use the ABEL scratchpad in the Inquiry mode to calculate IV-E financial eligibility. Using the Inquiry mode (so as not to permanently change any TANF budget data), enter the date of 07-01-96 as the "from date" and 07-31-96 as the "to date". The ABEL system will then calculate the income eligibility of the family according to the July 1996 Title IV-A standard.

When the effective dates have been entered, a new ABEL budget calculation for the IV-E eligibility determination will then be on the screen. Print a copy of this screen and retain the copy in the case record as documentation of the Title IV-E financial eligibility determination. Close out the Inquiry mode screen and return to the TANF ABEL Budget screen. Print a copy of the TANF ABEL budget calculation and retain it in the case record along with the Title IV-E financial eligibility determination.

Further instructions will be forthcoming on specific variances regarding \$30 + 1/3 and child care deductions which may impact a minimal number of the earned income cases. Budgeting for AFDC as of July 16, 1996 should not be delayed on placements on or after November 1, 1997 pending these special circumstances however. A copy of the resultant ABEL calculation as well as the ABEL budget in effect at the time of the removal should be filed in the case record.

NOTE: An ABEL budget will include in its calculations a determination of the requisite 185% of the standard of need as well as a determination of eligibility for an ADC grant as of July 16, 1996. Both steps are required to meet the financial eligibility test.

As has been the practice prior to November 1, 1997, an ABEL budget calculation will need to be done for all removals from parental homes which are not in receipt of Public Assistance. For such cases, social services districts are reminded of their responsibilities for securing adequate income and needs verification in order to do such a budget or to provide sufficient case record explanation as to why the case can be determined not eligible for ADC without securing such information. See 97-LCM-38 p. 6 for further discussion on budgeting these cases.

Children living with non-parental specified relatives at the time of removal and who do not have income or resources in their own name can be deemed to pass the ADC test without a budget computation, but documentation of the living arrangements and the investigation showing that the child had no income or resources in his or her own name, needs to be kept in the case record. Children in such living circumstances who do have income and or resources in their own name will require an ABEL budget calculation.

PARENTAL DEPRIVATION FACTOR

The parental deprivation factor which makes the case eligible for AFDC must also now be independently documented in the case record regardless of the child's Public Assistance status on WMS. The facts of a given case must be documented and applied to the criteria for AFDC categorical eligibility as of July 16, 1996. The following recommendations are made to local social services districts in order to assure proper documentation for Title IV-E purposes.

Parental absence - Case record notations, such as the UCR, court petitions, and referrals to the child support unit which reflect a parent's absence will provide appropriate documentation.

Incapacity of a parent - Documentation of SSI or various disability benefits or medical verification of a condition limiting parental functioning or ability to earn income are appropriate.

Death of a parent - Court records, UCR materials, death certificates, obituaries and receipt of survivor benefits will document this factor.

Unemployed parent - This deprivation factor has complex and technical requirements when neither parent is in receipt of Unemployment Insurance Benefits (UIB). Receipt of UIB automatically qualifies a case for the unemployed parent deprivation factor. In all other circumstances, local social services districts should refer to 92 ADM-7.

AGE

All sources currently used to document age are acceptable. Social services district staff need to be advised, however, that under PRWORA the school attendance requirements have been changed for children over 18 but not yet 19. However, the age and school attendance requirements for 18 year old children has not changed under Title IV-E. At redetermination time, such school attendance and expected graduation by age 19 must be verified in accordance with the AFDC rules in effect on July 16, 1996 rather than the educational requirement under PRWORA.

LIVING WITH SPECIFIED RELATIVE

Social services districts should continue to print and retain in their records WMS case composition screens which reflect the child's active status and relationship code to document living with a specified relative, or assure that such documentation is met in a petition or other documents submitted to the court in the removal and placement process and retained in the case record.

ADOPTION ASSISTANCE

Federal Title IV-E adoption assistance payments are available for children with special needs who meet the federal eligibility criteria for the Title IV-A (AFDC), Title IV-E Foster Care or the Title XVI (Supplemental Security Income) program.

The only change for adoption assistance is that, as for the Title IV-E foster care eligibility, if adoption assistance eligibility is to be derived from AFDC, the AFDC eligibility criteria must be that which was in effect on July 16, 1996.

Most children in foster care who are eligible to receive Title IV-E adoption assistance are already in receipt of Title IV-E foster care, so there will be little direct effect in determining Title IV-E adoption assistance eligibility.

RESOURCES

TANF resource levels are different from the AFDC program in effect on July 16, 1996. Title IV-E foster care initial eligibility will continue to be predicated on the AFDC resource level of \$1,000 and, in addition, an automobile with an equity value of no more than \$1,500.

Transfer Implementation: Chapter 436 of the Laws of 1997 renames the Department of Social Services as the Department of Family Assistance which is comprised of two independent offices: the Office of Children and Family Services and the Office of Temporary and Disability Assistance.

Upon the execution of a Memorandum of Understanding and compliance with the Civil Service Laws, responsibility as specified in Chapter 436 will be transferred from the former Department of Social Services to the Office of Children and Family Services (OCFS) and fully integrated with the functions and duties of the former Division for Youth. The recommendations contained herein have been approved by all necessary staff of the referenced agencies.

If you have any questions regarding Title IV-E eligibility as discussed in this LCM, please contact John Conboy, Office of Quality Assurance and Audit at 1-(518) 402-0147 or via OFISLINK e-mail, User ID 90b061 or Veronica Lynch at (518) 473-0143, or via Connections Exchange # 3779XX.

Melvin Rosenblat
Deputy Commissioner for
Administration