



INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

Chapter 14: Adoption Assistance and Guardianship Assistance

Section 08: Negotiations for Adoption Assistance

Effective Date: January 1, 2023

Version: 7

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POLICY OVERVIEW

The Indiana Adoption Assistance Program (AAP) and the State Adoption Subsidy (SAS) program is provided for eligible children, to assist adoptive parents with their obligation to meet the children's needs. The goal of this program is to promote permanency in an efficient and expeditious way, for children who may otherwise have their permanency delayed due to special needs.

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PROCEDURE

The Indiana Department of Child Services (DCS) will provide ongoing financial and other assistance through either AAP or SAS. Eligible children may receive a periodic payment, as negotiated between the prospective adoptive parent and DCS. Eligibility for Medicaid and the reimbursement of appropriate Non-Recurring Adoption Expenses (NRAE) are not negotiated.

It is DCS' responsibility to determine the periodic payment amount that is appropriate in each individual case. DCS will work collaboratively with families to understand and determine the current and ongoing needs of the child being adopted and the cost of those needs. The circumstances of each family will be considered in combination with the resources available to the prospective adoptive parent in order to determine a periodic payment amount that will assist the family with integrating the child into the adoptive family. This policy outlines how such levels of assistance should be negotiated to determine the periodic payment amounts for adoption assistance applicants who are determined to be eligible for either AAP or SAS.

Note: Effective June 27, 2022, the base subsidy for the adoption assistance periodic payment for AAP or SAS will not be less than 50% of the amount that would have been payable for the eligible child's care if the child were in foster care (per IC 31-19-26.5-10.5, which applies for SAS only). This rate is offered to pre-adoptive parent(s) of the eligible child regardless of demonstrated need. If the pre-adoptive parent(s) wish(es) to negotiate for a higher subsidy, they may do so. If the pre-adoptive parent(s) do(es) not want to receive a subsidy and sign an agreement indicating the same, the resulting periodic payment for the eligible child will be \$0.

Upon the completion of a Final Adoption Program Eligibility Determination form, indicating the child is eligible for AAP or SAS (whichever is applicable), DCS will meet with the prospective adoptive parent to discuss the steps and procedures for completing and finalizing the adoption

assistance agreement and the adoption of the child. DCS will provide the prospective adoptive parent with a copy of the following documents:

1. The notice of Final Adoption Program Eligibility Determination form;
2. An adoption assistance agreement currently approved by DCS for use in AAP or SAS cases (whichever is applicable);
3. The Subsidy Negotiation Checklist describing the information needed from the prospective adoptive parent(s) for consideration and discussion with DCS in negotiating and determining any periodic payment to be paid by DCS under the agreement;
4. The Request for Administrative Review-Indiana Adoption Program form for children who have been determined ineligible for either AAP or SAS, or eligible for SAS due to the determination that the child is not eligible for AAP; and
5. Other information prepared by DCS staff for consideration in determining the periodic payment amount.

The amount of the periodic payment to be included in the adoption assistance agreement will be determined through discussion and negotiation between the prospective adoptive parent and/or their attorney and DCS. Negotiations will occur through the DCS Adoption Assistance Negotiation Unit, located in the DCS Central Office. During the negotiation, the DCS LOD or designee and the designated DCS Central Office Attorney will represent DCS. The prospective adoptive parent may choose to be represented by an attorney or to participate directly in the negotiation.

The Final Adoption Program Eligibility Determination form, unsigned adoption assistance agreement, and other information prepared by DCS staff for consideration in determining the periodic payment amount (eligibility documents) also will be provided to the DCS Adoption Assistance Negotiation Unit. Upon receipt, an assigned Negotiator will offer 50% of the child's correct foster care payment rate to the prospective adoptive parent and/or their attorney. If the offer is not accepted promptly, the Negotiator will request income and expense information and documentation from the prospective parent to negotiate the periodic payment amount. The prospective adoptive parent will have an opportunity to discuss the information with DCS in order to negotiate the periodic payment amount.

Negotiation of the periodic payment amount will occur and be completed within 45 calendar days after the date the DCS Negotiations Unit receives the eligibility documents unless an extension of the negotiation deadline has been approved by the DCS LOD or designee.

The following factors and information based on the documentation required by DCS and provided by the prospective adoptive parent will be considered in negotiating the periodic payment amount above the 50% threshold:

1. The current needs of the child and needs anticipated to occur within one (1) year after finalization of the adoption and the costs of the anticipated needs;

Note: The needs and expenses of the child that are anticipated to occur after one (1) year of the execution of the agreement may be addressed through a request to modify the agreement at the time the need and expenses arise.

2. The circumstances of the adoptive family, including their ability to provide for the child's current needs;
3. Resources available to the adoptive family to provide for the current needs of the child, such as health care, post-adoption services, public education, activities related to child

development and transition to independent living, sources of income, and the availability of extended family and community resources;

4. The extent to which the identified needs of the child may be met through services covered by Medicaid or other resources;
5. The ability of the adoptive family to seek renegotiation and modification of the periodic payment amount for any unanticipated or unidentified changes in the child's needs or family's financial circumstances, as provided in this policy; and
6. Any other specific facts pertaining to the child or adoptive family that either DCS or the prospective adoptive parent consider relevant to the goal of integrating the child into the adoptive family.

If negotiation of the periodic payment amount has not resulted in an approved agreement within 45 calendar days of DCS' receipt of the eligibility documents, or other approved deadline, DCS will send a final offer letter to the prospective adoptive parent, and/or their attorney, stating the periodic payment amount that DCS agrees to pay. The final offer letter will include the Request for Administrative Review form and information about the availability of an administrative review process. A prospective adoptive parent may sign an Adoption Assistance Agreement, which includes the periodic payment amount identified in the final offer letter while pursuing an administrative review of the amount. See policy 10. 20 Administrative Review for Adoption Assistance for additional information.

Except for determination of the periodic payment amount and completion of any other specific information relating to the adoptive child or family, the provisions of the adoption assistance agreement form approved by DCS shall not be altered or amended. Any change of a specified term or condition must be approved by both the DCS Deputy Director of Field Operations and the DCS General Counsel or their respective designees. Approval or disapproval of any requested content or format change in the agreement form is not subject to administrative review or administrative appeal.

The agreement must be signed by both DCS and the prospective adoptive parent before entry of the Final Decree of Adoption. **If the decree is entered before the agreement has been signed by both DCS and the prospective adoptive parent, no agreement may be entered into and the child is not eligible for any form of adoption assistance under the Indiana Adoption Assistance Program.**

The Family Case Manager (FCM) will:

1. Meet with the prospective adoptive parent within 15 calendar days after receipt of the Final Adoption Program Eligibility Determination form for a child who is eligible and may potentially receive periodic payments under a signed agreement;
2. Provide the prospective adoptive parent with a copy of the pertinent documents, including the Subsidy Negotiations Checklist, and discuss the procedure for completing the agreement;
3. Explain the other steps and procedures needed for purposes of finalizing the adoption of the child, including the opportunity to negotiate the amount of the periodic payment. See policy 14.06 Indiana Adoption Assistance Program Overview for additional information;
4. Provide the prospective adoptive parent with information about the availability of post-adoption services that may be requested and provided by DCS;
5. Explain to the prospective adoptive parent that a request can be made to change the periodic payment amount if the child's needs or family circumstances change. See policy 14.09 Modifications of an Adoption Assistance Agreement for additional information;

6. Explain to the prospective adoptive parent that the Adoption Assistance Agreement **must be signed** before finalizing the adoption; and

Note: If the Adoption Assistance Agreement is not signed by all parties prior to the finalization of the adoption, then the Adoption Assistance Agreement is not valid, and thus, in such situation all adoption assistance payments and other benefits are forfeited.

7. Send the signed adoption assistance agreement and final decree of adoption from the court to the DCS Central Eligibility Unit (CEU) email.

The DCS LOD or designee will:

1. Provide the DCS Central Office Attorney or designee with the information necessary to negotiate the appropriate periodic payment amount;
2. Sign the completed adoption assistance agreement on behalf of DCS; and
3. Sign the agency consent (**after the adoption assistance agreement is fully executed**), and provide a copy to the prospective adoptive parent or their attorney for filing with the court in the adoption case.

The DCS Central Office Attorney or designee will oversee the DCS Adoption Assistance Negotiation Unit and assign each negotiation to one (1) of the Negotiators in the DCS Adoption Assistance Negotiation Unit.

The DCS Negotiator will:

1. Review information received from the DCS LOD and the prospective adoptive parent necessary to negotiate the appropriate periodic payment amount;
2. Communicate with the DCS LOD, if necessary, about the information received and the calculations made in order to arrive at a periodic payment range for the adoption subsidy;
3. Document and retain how the information provided was evaluated to calculate a periodic payment range;
4. Discuss the periodic payment with the prospective adoptive parent and/or their attorney, and negotiate the amount for the adoption assistance agreement;
5. Present the adoption assistance agreement for signatures to the prospective adoptive parent and/or their attorney and DCS LOD or designee when the negotiations result in agreement; and
6. Prepare and send a final offer letter that includes information about the availability of administrative review to the prospective adoptive parent and/or their designated attorney when the negotiations do not result in agreement within 45 calendar days unless an extension is agreed to by the LOD or designee. Enclose the Request for Administrative Review form.

The DCS CEU will send a packet to the FCM, which includes:

1. Notice of the Final Adoption Program Eligibility Determination form;
2. The agreement in the form currently approved by DCS for use in AAP or SAS cases (if either is applicable);
3. Subsidy Negotiations Checklist (if applicable);
4. Any other information prepared by DCS to inform DCS staff and the prospective adoptive parent of the determination and duration of periodic payments of assistance or subsidies; and

5. Request for Administrative Review form if the child is determined ineligible for adoption assistance.

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RELEVANT INFORMATION

Definitions

Final Offer Letter

The final offer letter is sent by the DCS Central Office Attorney or designee and states the final offer of DCS for the amount of the periodic payment under an adoption assistance agreement. The letter will include information about the availability of an administrative review process and the Request for Administrative Review form.

Periodic Payment

A periodic payment is a per diem amount, paid monthly, to be specified in the written adoption assistance agreement.

Forms and Tools

- Adoption Assistance Program (AAP) Agreement – Available via CEU
- State Adoption Subsidy (SAS) Agreement – Available via CEU
- DCS CEU email - centralized.eligibility@dcs.in.gov
- Final Adoption Program Eligibility Determination – Available via CEU
- Subsidy Negotiations Checklist – Available via CEU or the DCS CEU Subsidy Eligibility Determination Portal
- [Request for Administrative Review \(SF 54348\)](#)
- [10.A Tool: TPR/Adoption Checklist](#)

Related Policies

- [14.06 Indiana Adoption Assistance Program Overview](#)
- [14.09 Modifications of an Adoption Assistance Agreement](#)
- [14.11 Administrative Review for Adoption Assistance](#)

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LEGAL REFERENCES

- [IC 31-19-26.5-1 Adoption Subsidy](#)
- [IC 31-19-26.5-10.5 Required agreement and allocation of funds from the adoption assistance account](#)
- [42 USC 673 Adoption and Guardianship Assistance Program](#)
- [45 CFR 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.](#)
- [465 IAC 3 Administrative Reviews and Hearings](#)
- [465 IAC 4I Indiana Adoption Assistance and Guardianship Assistance Programs](#)

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PRACTICE GUIDANCE- DCS POLICY 14.08

Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.

N/A

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