

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 15: Eligibility	Effective Date: January 1, 2020
	Section 3: Judicial Determinations	Version: 2

STATEMENTS OF PURPOSE

In order for a child to be eligible for Title IV-E Foster Care (Title IV-E) funding, the Department of Child Services (DCS) must obtain and keep in the child’s file documentation that the following judicial determinations were made by a court:

1. DCS or Probation was awarded responsibility for Placement and Care (PC) of the child;
2. It is Contrary to the Welfare (CTW) of the child to remain in the home or is in the child’s Best Interest (BI) to be removed from the home; and
3. Reasonable Efforts (RE) were made to prevent the child’s removal from his/her home.

See policies [6.1 Detention Hearing](#) and [6.2 Filing a CHINS Petition](#) for additional information about requesting and obtaining these judicial determinations.

For Title IV-E purposes, judicial determinations should be:

1. Made on a case-by-case basis and be child-specific;
2. Obtained within the federal timelines; and
3. Explicitly stated in a written court order signed by a judge or explicitly stated by the court as reflected in a court transcript of the hearing.

The effective date of a judicial determination is the date of the hearing which resulted in the determination. If the required judicial determinations are not obtained in a timely manner, the only acceptable alternative is a transcript of the court proceedings which contains the required judicial finding and language.

Responsibility for Placement and Care (PC)

A judicial determination that DCS or Probation is granted responsibility for PC of the child must be obtained in order to claim Title IV-E reimbursement. Typically, responsibility for PC is granted to DCS or Probation in the initial court order authorizing removal of the child. Although there is no federal deadline for this judicial determination, Title IV-E cannot be claimed for the child until PC language is documented in a court order.

Contrary to the Welfare/Best Interest (CTW/BI)

The first court order authorizing the child’s removal, even temporarily, must include a judicial determination that it is contrary to the child’s welfare to remain in the home or that out-of-home placement would be in the best interest of the child. Depending on the circumstances, the type of order that serves as the removal order may vary. Regardless of the type of order (this includes emergency custody orders, writs, and pick-up orders), the removal order must contain the CTW/BI finding. If the first court order does not contain a CTW/BI finding, the child will be ineligible for Title IV-E funding for the entire out-of-home care episode.

Reasonable Efforts to Prevent Removal (RE)

A judicial determination of RE must be obtained within 60 days from the date of removal.

The court order removing the child should include at least one (1) of the following:

1. RE were made, including a child-specific description of those efforts made to prevent the child's removal;
2. RE were not made due to emergency circumstances, including a child-specific description of the emergency circumstances preventing RE from being made;
3. RE were not required if any of the following apply:
 - a. The parent has subjected the child to certain aggravated circumstances,
 - b. The parent has been convicted of murder or voluntary manslaughter of another child of the parent,
 - c. The parent has aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter or committed a felony assault that resulted in serious bodily injury to the child or another child of the parent, or
 - d. Parental rights of the parent with respect to a sibling have been terminated involuntarily.

If the court determines RE was not required:

1. A permanency hearing must be held within 30 days after that determination; and
2. RE must be made to place the child in a timely manner in accordance with the permanency plan and to complete the steps necessary to finalize the permanent placement of the child.

Code References

1. [42 USC 671\(a\)\(15\): State plan for foster care and adoption assistance](#)
2. [42 USC 672\(a\)\(2\)\(A\) and \(B\): Foster care maintenance payments program](#)
3. [45 CFR 1356.21\(b\), \(c\) and \(d\): Foster care maintenance payments program implementation requirements](#)
4. [IC 31-34-5-2: Findings](#)
5. [IC 31-34-5-3: Release; findings required for detention order; approval of services, programs, and placement; court order; appeal; payment of costs](#)
6. [IC 31-34-21-5.6: Exceptions to requirement to make reasonable efforts to preserve and reunify families](#)

PROCEDURE

The DCS Central Eligibility Unit (CEU) will:

1. Review the court orders and eligibility information in the case management system; and
2. Make a determination of whether the CTW/BI, RE, and PC requirements are met.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

N/A

RELATED INFORMATION

N/A