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**Child Abuse and Neglect Hotline: 800-800-5556**

April 8, 2011

To: Regional Managers  
Directors, Local Offices, Department of Child Services

From: James W. Payne, Director  
Angela Green, Deputy Director of Practice Support  
Doug Weinberg, Chief Financial Officer  
Department of Child Services

Subject: Indiana Adoption Program Changes  
DCS 11-03

This administrative letter outlines a change to the Background Check and Waiver portion of administrative letter DCS 09-24 Indiana Adoption Program Changes which was released on October 1, 2009. These changes are effective on April 11, 2011.

This letter will clarify background check and documentation requirements to support a determination of eligibility for adoption assistance and provide information regarding changes to the Title IV-E adoption assistance eligibility requirements as a result of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351).

### **Background Checks for Adoption Subsidies**

An individual or family who has one of the 19 non-waivable felonies outlined in statute IC31-19-11-1 (and listed below) or any felony conviction and no waiver is granted will not be eligible for Adoption Assistance payments. This includes the Title IV-E Adoption Assistance Program (AAP) and the State Adoption Subsidy (SAS).



*Protecting our children, families and future*

Indiana non-waivable felonies:

1. Murder (IC 35-42-1-1)
2. Causing suicide (IC 35-42-1-2)
3. Assisting suicide (IC 35-42-1-2.5)
4. Voluntary manslaughter (IC 35-42-1-3)
5. Reckless homicide (IC 35-42-1-5)
6. Battery (IC 35-42-2-1) within the last 5 years
7. Domestic Battery (IC 31-27-4-13)
8. Aggravated battery (IC 35-42-2-1.5)
9. Kidnapping (IC 35-42-3-2)
10. Criminal confinement (IC 35-42-3-3)
11. A felony sex offense under IC 35-42-4
12. Carjacking (IC 35-42-5-2) within the last 5 years
13. Arson (IC 35-43-1-1) within the last 5 years
14. Incest (IC 35-46-1-3)
15. Neglect of a dependent (IC 35-46-1-4(a)(1) and (IC 35-461-4(a)(2))
16. Child selling (IC 35-46-1-4(d))
17. A felony involving a weapon under IC 35-47 or IC 35-47.5 within the last 5 years
18. A felony relating to controlled substances under IC 35-48-4 within the last 5 years
19. An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3
20. A felony that is equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.

The Family Case Manager (FCM) must instruct potential adoptive families to obtain background checks within a year prior to the submission of the [Indiana Adoption Program Application](#). The FCM must then submit the following documentation to the Centralized Eligibility Unit (CEU) with the [Indiana Adoption Program Application](#) (or, if available with the Indiana Adoption Program Request for Pre-Determination of Eligibility):

1. Qualified letter for each person in the household over age 18, or a disqualified letter and a waiver (see waiver process below);
2. Results of CPS History for each person in the household over age 14 (including a waiver if there is substantiated CPS history); and
3. Results of the Sex Offender Registry check for each person in the household over age 14.

If the otherwise eligible children, whose adoptive family cannot pass the background check requirements, meets special needs and Medicaid eligibility (receipt of a letter from a physician, psychologist, psychiatrist or FCM), the child can receive a state adoption assistance agreement for Non-recurring Adoption Expenses (NRAE) and/or Medicaid only.



### **Waiver process**

The Centralized Eligibility Unit (CEU) will verify background check information. The case cannot be made Title IV-E AAP or SAS eligible if the background check information is missing or indicates one of the 19 non-waivable felonies, or a felony and no waiver is granted. This will be indicated with a disqualified letter. It is not necessary to determine if it is one of the 19 felonies. Receipt of a disqualified letter, and no waiver, will make the child not eligible for a monthly subsidy payment. If the family has a substantiated Child Abuse or Neglect finding, they must receive a waiver in order to receive either an IV-E Adoption Subsidy or State Adoption Subsidy

The following is the process by which a waiver can be requested by the adoptive parents:

1. The subject of the check must submit a letter that includes the following:
  - a. The ability of the proposed applicant to provide for the child's safety and well-being.
  - b. The length of time that has passed since the conviction, juvenile adjudication or child abuse or neglect substantiation.
  - c. The severity of the offense.
  - d. Evidence of the subject's rehabilitation.
  - e. Signatures of the subject of the check, the licensing worker/FCM, the licensing Supervisor, and the DCS Local Office Director.

**Note:** The licensing worker/FCM can send a separate letter in lieu of signing the applicant's letter.

2. All waiver request must be approved by a Background Check Team. The Team will consist of the Regional Manager and the DCS Local Office Director in the county/region where the applicant is requesting placement and a member of the Central Office Background Check Unit. A team decision can be made via e-mail, telephone or in person.

Submit the fingerprint or CPS waiver request to the Central Office Background Check Unit.

### **Revised adoption assistance eligibility requirements**

Beginning 10-1-09, Indiana Adoption Program Applications will be processed by CEU using new eligibility criteria for AAP for children in foster care. This category is called, 'applicable child'. The connection between Aid to Families with Dependent Children (AFDC) and AAP will be gradually phased out over the next eight (8) years (see the phase in information below). The following outlines the eligibility requirements for applicable children:

1. Children who are age 16 or 17 (or will turn 16 within FFY 2010 – by September 30, 2010); **or**



2. Children who have been in foster care 60 consecutive months; **or**
3. The sibling of an applicable child who will be adopted by the same parent as the sibling.

**AND**

4. A citizen or qualified alien;
5. A finding of 'Contrary to the Welfare' was in the removal order; and
6. The child meets all three (3) special needs criteria.

The following demonstrates the phase-in:

1. Age 16 or older when subsidy signed in FFY2010 (or will turn 16 within FFY2010);
2. Age 14 or older in FFY 2011 (or will turn 14 within FFY 2011);
3. Age 12 or older in FFY 2012 (or will turn 12 within FFY 2012);
4. Age 10 or older in FFY 2013 (or will turn 10 within FFY 2013);
5. Age 8 and older in FFY 2014 (or will turn 8 within FFY 2014);
6. Age 6 and older in FFY 2015 (or will turn 6 within FFY 2015);
7. Age 4 and older in FFY 2016 (or will turn 4 within FFY 2016);
8. Age 2 and older in FFY 2017 (or will turn 2 within FFY 2017); and
9. All children in FFY 2018

Based on this new federal term of applicable child, eligibility for AAP can be met using any of the following:

1. An Applicable Child or would the child have been AFDC eligible in the month of removal;
2. Eligible for Supplemental Security Income (SSI)
  - a. For applicable children, there are no income requirements. The child need only meet the disability standard as documented by a letter from SSA, or
  - b. For non-applicable children, the child must be in receipt of SSI payments as demonstrated by ICWIS or ICES.
3. Child is a child of a minor parent in foster care whose Title IV-E Foster Care maintenance payment covers the child's costs of care at the time of adoption initiation; or
4. Child was eligible for Title IV-E AAP in a prior adoption.

FCMs who have children who appear to meet the applicable child definition and who have not yet been adopted are asked to submit a new Indiana Adoption Application even if they have previously been denied an AAP subsidy.

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**International Adoptions**

Indiana DCS has received clarification from the Region 5 Administration for Children and Families (ACF) that adoption assistance will not be allowed for international adoptions. This change includes nonrecurring adoption expenses.

Updates will be made to the DCS Policy Manual to reflect these important changes. If you have any questions related to this policy please address them to the Centralized Eligibility Unit at [Centralized.Eligibility@dcs.IN.gov](mailto:Centralized.Eligibility@dcs.IN.gov).

Sincerely,

James W. Payne, Director  
Indiana Department of Child Services

