

## **DEPARTMENT OF HUMAN SERVICES**

### **Social Services Rules**

## **CHILD WELFARE SERVICES**

### **12 CCR 2509-4**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

---

#### **7.300 CHILD WELFARE SERVICES**

##### **7.300.1 FAMILY ENGAGEMENT [Eff. 5/1/12]**

County departments of human/social services shall adopt family engagement practices. Family engagement means joining with the family/kin to establish common goals of safety, well-being, and permanency throughout the involvement and is inclusive of other systems. This is an overarching theme of practice throughout service assessment, planning, and delivery. Family engagement practice shall include, but not be limited to, family meetings, cultural responsiveness, and reflect the core principles below:

- A. It focuses on the strengths and interests of the child, youth, and family.
- B. It promotes family and youth choice through family and youth-driven decisions.
- C. It actively supports that all families receive timely access to culturally responsive services they identify as necessary to safely care for their children and youth, and results in meaningful family involvement.
- D. It supports relationship building and community participation.
- E. It fosters mutual trust and respect between families, youth, agency, and stakeholders.
- F. It values the support network and relationships of each individual.
- G. Information sharing is open, honest, and clear.
- H. It extends beyond the immediate family members to those identified by the family as a source of support and strength and who will serve beyond the involvement of the child welfare system to help sustain the reunification and/or ability to safely parent the children/youth.

#### **7.301 ASSESSMENT AND FAMILY SERVICES PLANNING**

##### **7.301.1 ASSESSMENT [Eff. 1/15/15]**

- A. The Colorado Assessment Continuum (CAC) will be utilized throughout the case. The CAC includes the:
  - 1. Safety assessment and plan, referenced in Section 7.107.1 and Section 7.107.16 (12 CCR 2509-2).
  - 2. Risk assessment, referenced in Section 7.107.2 (12 CCR 2509-2).

- B. Safety assessment and risk assessment are ongoing processes throughout the life of the case. Safety and risk assessments, as defined in this manual, shall be completed for each Program Area 5 case accepted for assessment by the county department and shall be the basis for case planning. Each of these assessments shall be entered into the automated case management system in accordance with the timeframes referenced in Section 7.301.1, A, 1 and 2.
1. The family, including relatives with caretaking responsibilities for children in the household, shall be involved in all phases of assessment and case planning.
  2. Assessment tools or resources available through community agencies shall be incorporated in the assessment, based on the culture, ethnicity and other needs of the family.
  3. As a result of this assessment/evaluation, the caseworker and family shall identify the family's current safety and risk, to include level of functioning, areas of strengths, specific areas of concern to be addressed, and changes that must occur to remedy the concerns that brought the family to the agency. This information shall be included in the Family Services Plan.

**7.301.2 FAMILY SERVICES PLAN REQUIREMENTS [Eff. 09/1/07]**

The county department shall complete the Family Services Plan document for each child receiving services to assure that the child's needs for safety, permanency, and well-being are met. The Family Services Plan shall incorporate the following principles:

- A. A child/youth's safety is paramount;
- B. Children/youth belong in families;
- C. Families need the support of communities; and,
- D. Community partners are key to achieving strong outcomes for children/youth and families.

**7.301.21 Family Services Plan Timing Requirements [Rev. eff. 11/1/15]**

The Family Service Plan document must be completed:

- A. Within sixty (60) calendar days of the referral date in the automated case management system for children/youth in their own homes, including Core Services program cases in which the children/youth are not in out-of-home placement. There may be one Family Services Plan for the family in these cases.
- B. Within sixty (60) calendar days of the referral date in the automated case management system for children in out-of-home placement, including those cases in which the children/youth are receiving Core Services. There may be one Family Services Plan for the family; however, discrete sections in the treatment plan and in the placement information are required for each child/youth in placement.
- C. For youth fourteen (14) years of age and over in out-of-home placement, the plan for transition to independent living/emancipation shall be completed within sixty (60) calendar days of the youth's fourteenth (14<sup>th</sup>) birthday or of case opening.

**7.301.22 Family Service Plan Participants [Rev. eff. 7/1/14]**

- A. The county shall assure that the following parties participate in the development of the Family Services Plan and engagement activities:
  - 1. Caseworker;
  - 2. Parent(s) or legal guardians;
  - 3. Child/youth;
  - 4. Immediate and extended family members as appropriate to the service needs of the family, child, and youth; and,
  - 5. Service providers, including kin caregivers, out-of-home caregivers, and in-home providers.
- B. In addition to all parties being encouraged to sign the plan, all parties shall be engaged in activities that indicate involvement in service planning, including, but not limited to:
  - 1. Family engagement meetings; or,
  - 2. Ongoing contacts, which could include, but are not limited to: face to face, visitation, email, texts, technology with face to face capacity, emerging technology, or through signature on the Family Services Plan.
- C. Activities shall be documented in the State Department's automated system and may be located in the record of contact notes, the framework field, ninety (90) day reviews, and progress reports to the court. Documentation shall reflect the various ways in which attempts were made to engage parents, child/youth, and providers.

**7.301.23 Family Service Plan Documentation**

The Family Services Plan shall document

- A. That services to be provided are directed at the areas of need identified in the assessment. Outcomes to be achieved as a result of the services provided will be described in terms of specific, measurable, agreed upon, realistic, time-limited objectives and action steps to be accomplished by the parents, child/youth, service providers and county staff.
- B. That services to be provided are designed to assure that the child/youth receives safe and proper care.
- C. That services to be provided are culturally and ethnically appropriate. Appropriate cultural or ethnic considerations should include, but are not limited to, consideration of the child/youth's family, community, neighborhood, faith or religious beliefs, school activities, friends, and the child/youth's and family's primary language.

**7.301.231 Integration of Safety and Risk Requirements [Rev. eff. 1/1/15]**

Integration of safety and risk requirements into the case plan in the family services plan shall be accomplished in the following ways:

- A. Safety and risk assessments completed in the assessment portion of the automated case management system shall automatically become a part of the case, when a case is opened.

- B. Safety concerns identified on the safety assessment will be included in Part 3A, and will be the basis for developing treatment plan objectives.
- C. Risk concerns identified on the assessment will be included in Part 3A, and shall be used in developing treatment plans.
- D. In Part 5A, the following question shall be addressed: "Based on the information presented above, is there present or impending danger that must still be managed?"

**7.301.24 Family Service Plan Out-of-Home Placement Documentation [Rev. eff. 3/1/16]**

For child(ren)/youth in out-of-home placement, the Family Services Plan documents:

- A. That the child/youth meets all of the out-of-home placement criteria listed in Section 7.304.3.
- B. That when the child/youth is part of a sibling group and the sibling group is being placed out of the home, if the county department locates an appropriate, capable, willing, and available joint placement for all of the children/youth in the sibling group, it shall be presumed that placement of the entire sibling group in the joint placement is in the best interests of the children/youth. Such presumption may be rebutted by the county by a preponderance of the evidence that placement of the entire sibling group in the joint placement is not in the best interests of a child/youth or of the children/youth. At the dispositional hearing, if a child/youth is part of a sibling group and was not placed with his/her siblings, documentation shall be submitted to the court about whether it continues to be in the best interest of the child(ren)/youth to be placed separately.
- C. The problems to be resolved in order to facilitate reunification of the child/youth and family, and to safely maintain the child/youth in the home.
- D. A description of the type of facility in which the child/youth is placed and the reason(s) the placement is appropriate and safe for the child/youth.
- E. A description of the county's efforts to place the child/youth in reasonable proximity to the home of the parents and to the school in which he or she was enrolled at the time of each placement, referred to as the "school of origin." For a child/youth placed a substantial distance from the home of the parent(s), from his or her school of origin, or in out-of-state placement, the county shall document how the placement meets the best interests of the child/youth, including how the county took into account proximity to parents and school in making its placement decision (see sections 7.304.54, J and 7.301.241, B, 2).
- F. A summary of efforts to ensure educational stability as outlined in Section 7.301.241.
- G. That the placement is the least restrictive, safe, and most appropriate setting available consistent with the best interests and specific needs of the child. This includes documentation of initial and on-going efforts to place the child/youth with kin.  
  
If the child/youth is moved to a more restrictive placement after the initial placement, the Family Services Plan documents how the more restrictive placement meets the child/youth's needs.
- H. Health and educational information shall be documented in the State Department's automated system and updated at the time of each case review, including addresses and other contact information about the child/youth's current:
  - 1. Education providers, including school, school district, and Board of Cooperative Education Services (BOCES) contacts who assist in the coordination of enrollment and services, and the child/youth's academic progress.

2. Health care providers and the status of health care information.
- I. Specific plans for how the county will carry out any court determinations or orders concerning the child/youth.
- J. A description of the services and resources needed by the foster parents or kinship providers to meet the needs of the child/youth and how those services and resources will be provided.
- K. A description of the services provided to reunite the family, including the plan for visitation, or to accomplish another permanency goal. The visitation plan shall specify the frequency, type of contact, and the person(s) who will make the visit. At a minimum the visitation plan shall provide the methods to meet the following:
  1. The growth and development of the child/youth;
  2. The child/youth's adjustment to placement;
  3. The ability of the provider to meet the child/youth's needs;
  4. The appropriateness of the parent and child/youth visitation, including assessment of risk;
  5. The child/youth's contact with parents, siblings, and other family members; and
  6. Visitation between the child/youth and his/her family shall increase in frequency and duration as the goal of reuniting the family is approached.
- L. For child(ren) under the age of fourteen (14), a description of services and a plan for accomplishing tasks to prepare child(ren) to be age appropriately self-sufficient, when independent living services are provided.
- M. For youth age fourteen (14) and older, a description of services and a plan for accomplishing tasks to assist the youth in preparation for self sufficiency and independent living as early in placement as possible but no later than sixty (60) calendar days after the youth's fourteenth (14th) birthday.
- N. Reasonable efforts have been made to maintain the child/youth in the home, or prevent or eliminate the need for removal of the child/youth from the home, or make it possible for the child/youth to return to the home; or when applicable, documentation of the circumstances that exist in which reasonable efforts to prevent removal or reunite the child and the family are not required (see Section 7.304.53, B, 3).
- O. The specified permanency goal for the child/youth shall be based on the individual needs and best interests of the child/youth. Permanency goals shall include one of the following:
  - Remain home;
  - Return home;
  - Permanent placement with a relative through adoption;
  - Permanent placement with a relative through legal guardianship or permanent custody;
  - Adoption (non-relative);
  - Legal guardianship/permanent custody (non-relative);

- Return home through reinstatement of parental rights;
- Other planned permanent living arrangement through emancipation;
- Other planned permanent living arrangement through relative long term foster care;
- Other planned permanent living arrangement through non-relative long term foster care.

Permanency goals shall include the projected date (month, day, and year) by which the goal is to be accomplished for each child/youth receiving services.

1. The initial permanency goal for the child/youth is to return home with the following exceptions:
    - a. Children/youth whose parents are both deceased or have both voluntarily relinquished custody;
    - b. Children/youth whose parents cannot be located after family search and engagement activities, which shall begin no later than three working days following placement and shall not exceed three months;
    - c. Children/youth whose parents have been guilty of repeated and/or severe abuse or neglect of the child/youth or the child/youth's siblings such that termination of parental rights of both parents is appropriate; or,
    - d. children/youth for whom it appears, after investigation, that a safe return home will not be possible even with the provision of reasonable efforts.
  2. After twelve months, the child/youth's caseworker and supervisor shall include written justification on the Family Services Plan for continuation of the goal of return home.
  3. After eighteen months, the extraordinary circumstances which exist and the reasons which support the permanency goal of return home shall be documented in the Family Services Plan. Approval of the return home permanency goal by the caseworker, supervisor and county administrative review is documented in the case record.
  4. In concurrent planning cases the alternate permanency goal shall be documented.
  5. The permanency goal of other planned permanent living arrangement through emancipation shall only be used for youth ages sixteen to twenty-one.
  6. For a child/youth who has been in foster care under the responsibility of the state for fifteen (15) of the last twenty-two (22) months, the county shall either file a motion for termination of parental rights no later than the end of the fifteenth (15th) month or document and submit to the court at the next review the compelling reason why it is in the child/youth's best interest not to terminate parental rights.
- P. The steps the agency is taking to find an adoptive or other permanent living arrangement for a child/youth for whom the permanency plan is adoption or placement in another permanent home.
- Q. The permanency goal for the child would be to remain home barring case circumstances that would indicate the need for an alternative permanency goal when a teen mother and her child are placed together in the same foster home and if a case is opened on the child. The county must see the child when visiting the teen mother in the foster home.

- R. Requirements for use of Other Planned Permanent Living Arrangement goals as follows:
1. The county department may consider Other Planned Permanent Living Arrangement (OPPLA) as a permanency goal:  
  
For youth who are sixteen (16) years of age or over and are demonstrating exceptional circumstances that prevent the youth from returning home, adoption, legal guardianship or permanent custody.
  2. The goal shall be reviewed through the use of a family engagement meeting or equivalent team that reviews permanency needs. All of the following shall be submitted to and considered by the review team, and the recommendation shall be submitted to the court.
    - a. Documentation pertaining to the completion of an intensive and ongoing examination of kin and permanent connections. This process shall also address:
      - 1) A comprehensive assessment of the youth's strengths and needs. In addition to updating the assessment of the youth's strengths and needs, the updated assessment or staffing shall address the youth's capacity to live within a family setting.
      - 2) This review team shall also consider the youth's desired permanency outcome.
    - b. A detailed description of efforts made to achieve permanency through the other goals and identification of the barriers to achieve them.
    - c. A detailed description of how OPPLA is in the best interest of the youth.
  3. The following is to be documented and made available to the court at each court review.
    - a. Documentation of the barriers to permanency to date and compelling reasons why the other permanency goals are not attainable.
    - b. Documentation of the youth's desired permanency outcome including giving the youth an opportunity to attend each hearing to voice his/her desired goal.
    - c. Documentation of intensive, ongoing, and as of the date of the hearing, unsuccessful efforts to return the youth home or secure a placement for the youth with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including thorough efforts that utilize technology (including social media) to find biological family members for the youth.
    - d. Documentation of the steps taken to ensure that youth are being supported in-engaging in age or developmentally appropriate activities and social events including:
      - 1) The youth's foster family home or other placement is following the reasonable and prudent parent standard; and,
      - 2) The youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including consulting with the youth in an age-appropriate manner about the opportunities of the youth to participate in the activities).

4. Documentation which includes the review team's reasons for approving Other Planned Permanent Living Arrangement (OPPLA) shall also be entered in the Family Service Plan as directed by the Division of Child Welfare.
5. The use of this goal shall be reviewed by a family engagement or equivalent review team at a minimum of every six (6) months. The county shall request that the court review the case every twelve (12) months to determine if the youth is demonstrating exceptional circumstances that prevent the youth from returning home, adoption, legal guardianship or permanent custody.
6. If this goal is not achieved through relative care, a family-like network of significant people shall be developed to provide the youth with a sense of belonging and with support expected to endure over a lifetime.

**S. Reinstatement of Parental Rights**

1. The county department of human or social services may explore the use of reinstatement of parental rights as a permanency option for:
  - a. Children twelve (12) years of age and older, or child(ren) younger than twelve (12) years of age if they are part of a sibling group where at least one of the child(ren) or youth is twelve or older and is pursuing reinstatement of parental rights; and,
  - b. Child(ren) younger than twelve (12), if they are part of a sibling group where at least one of the child(ren) is twelve or older, and is pursuing reinstatement of parental rights; and,
  - c. Child(ren) who currently do not have a legal parent; and,
  - d. Child(ren) who currently are not in an adoptive placement and not likely to be adopted within a reasonable period of time; and,
  - e. Child(ren) who had all other permanency options exhausted; and,
  - f. Cases when the termination of parental rights was ordered at least three-years-prior or when it is determined by the court to be in the best interest of the Child(ren) when termination occurred less than three years prior to the date of the petition for reinstatement is being filed with the court; and,
  - g. Child(ren) and former parent(s) that consent to parental rights being reinstated; and,
  - h. Child(ren) where it is in their best interest, including the financial best interest, to have parental rights reinstated; and,
  - i. Former parent(s) who have remedied the issues that led to the termination and those issues did not involve founded allegations of sexual abuse or an incident of egregious abuse or neglect against a child, a near fatality, or a suspicious fatality.
  - j. The child is in the legal custody of a county department.



2. A county department of human or social services that identifies reinstatement as a permanency option shall complete an assessment of the former parent(s). Completion of the assessment and the results of the assessment will be documented in the statewide case management system. The assessment shall include all of the following:
  - a. Completing the Colorado family risk assessment tool, which must include a visit and inspection of the former parent's home;
  - b. Reviewing the reasons for the termination of parental rights and determining if the concerns identified have been remedied and do not currently exist or present a safety concern;
  - c. Conducting the following background checks on the former parent(s) and any other adults eighteen (18) years of age or older in their home and share the results with all parties to the case:
    - 1) Child abuse/and/or neglect records check in every state where any adult residing in the home has lived in the five years preceding the filing of the petition for reinstatement;
    - 2) Fingerprint-based criminal history checks from the Colorado Bureau of Investigation (CBI), or other state background check if the parent lives in another state, and the Federal Bureau of Investigation (FBI);
    - 3) Review the state Judicial Department's case management system and include in the case record; and,
    - 4) Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice for:
      - a) Known names and addresses of each adult residing in the home; and,
      - b) Address only of the home.
3. A safety assessment shall be completed.
4. Upon the decision to pursue reinstatement of parental rights; only the county department, guardian ad litem, or a child sixteen (16) years of age or older may file the petition for reinstatement.
  - a. The petition for reinstatement of parental rights should be filed in the county who has custody of the child(ren) through the dependency and neglect court case.
  - b. The petition shall be filed in the dependency and neglect court case where the termination of parental rights occurred for the former parent(s) or in the event that the current open dependency and neglect case is a termination of the adoptive parent's rights, then the petition shall be filed in that court case, as it grants custody of the child(ren) to the county.
  - c. If the county is contacted by a former parent inquiring about reinstatement, the county must notify the guardian ad litem (gal) within thirty (30) calendar days after the contact and provide them with the name and address of the former parent(s).

- d. Once the court sets an initial hearing, the county shall develop and report to the court the following:
  - 1) Whether the former parent(s) has remedied the conditions that led to the termination;
  - 2) Based on the assessment of the former parent, including the outcome of the Colorado family risk assessment tool, the transition plan shall include supports or treatment needed for the child(ren) and former parent(s) to help make the reinstatement a success;
  - 3) Whether the former parent(s) can provide a safe and stable home for the child(ren);
  - 4) A visitation or temporary placement plan with the former parent(s) for up to a six month trial period where custody remains with the department; this plan will be approved or modified at this initial hearing.
    - a) Updates about the visits, transition plan, and supports shall be provided at each review hearing and no later than thirty (30) calendar days prior to the expiration of the trial home period.
    - b) At any point the placement is deemed no longer safe or in the best interest of the child(ren), removal shall be in accordance with procedures outlined in Sections 19-3-401 and 19-3-403, C.R.S.
  - 5) Whether the child(ren) will lose or gain any benefits or services (Medicaid, Chafee, etc.) as a result of the reinstatement being granted.
- 5. If the court grants the order, the county shall select reinstatement of parental rights as the closure reason, in the state automated case management system.
- 6. If the court denies the order the county department shall:
  - a. Arrange for immediate placement of the child(ren), if the child(ren) is still in the former parent's home;
  - b. Set a permanency hearing to determine a new permanency goal and plan for the child(ren).

**7.301.241 Education Requirements for Children/Youth in Out-of-Home Placement [Rev. eff. 2/1/10]**

- A. Documentation shall be entered into the state automated case management system to address compliance with all requirements in this section, 7.301.241, including designation of responsibilities.
- B. County departments shall coordinate with the local public school, school district, and/or Board of Cooperative Education Services (collectively, "local educational agency" or "LEA") to ensure educational stability for each school-aged child/youth, including those attending public pre-school, in out-of-home placement.

- C. Each placement of a child/youth shall take into account the appropriateness of the current educational setting and the proximity to the school in which the child/youth is enrolled at the time of placement, referred to as the “school of origin.” See Section 7.301.24, E.
- D. It is presumed to be in a child/youth’s best interest to remain in the school of origin. If transportation is necessary to maintain the child/youth in the school of origin, this shall be provided in accordance with section 7.301.24, E.

The county shall make a best interest determination prior to any school move resulting from a change in placements unless remaining in the school of origin poses a specific, documented threat to the child/youth’s safety. The best interest determination process is as follows:

- 1. The best interest discussion and determination shall occur as an in-person meeting when warranted and possible. When an in-person meeting is not warranted or not possible, or for participants unable to attend the meeting, the county department shall consult participants by other means, such as phone or email.
- 2. The county department shall invite the following people to participate in the best interest determination. If a participant is unavailable or cannot be located, the county shall document the various ways in which attempts were made to engage that participant.

- a. Child/youth, as described below,

The county department of human services shall determine the child/youth’s wishes in a developmentally appropriate way and include the child/youth in the meeting to the extent appropriate and possible for the child/youth’s individual needs. If it is inappropriate or not possible for the child/youth to participate in the meeting, the county department shall document the reason and ascertain the child/youth’s wishes through other means.

- b. Parents,

For purposes of this subsection 7.301.241, the term “parents” includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or a parent allocated parental responsibilities with respect to a child, or an adoptive parent. Parent does not include a person whose parental rights have been terminated pursuant to the provisions of Title 19 of the Colorado Revised Statutes or the parent of an emancipated minor.

- c. Caseworker or appropriate designee,
- d. Guardian ad litem, if one is appointed,
- e. Representative from the school of origin who knows the child/youth, as determined by the LEA,
- f. Educational surrogate parent, if any, and
- g. Others as relevant and appropriate as determined by the county, which may include but are not limited to future caregiver, court appointed special advocate (CASA), current caregiver, representatives from potential new school, support person for the child/youth.

3. Best interest determination meetings may be incorporated into family engagement meetings. The county department shall protect the family's confidentiality by including school personnel only in the portion of the meeting regarding the child/youth's educational needs, unless members consent to their ongoing participation in the meeting.

4. The best interest determination shall address whether it is in the child/youth's best interests to either:

- a. Remain in the same school, or
- b. Attend another appropriate school.

The potential new school(s) to consider may include any school in which the child/youth may enroll pursuant to state law and LEA policy, including but not limited to C.R.S. § 22-1-102 (defining residence of child), C.R.S. § 22-32-116 (defining exception to exclusion of non-residents), or C.R.S. § 22-20-107.5 (defining residence of child who receives special education). The county department need not consider every possible school; rather the county should identify which school or schools they are considering so the attributes of the specific schools can be considered.

If it is determined to be in the child/youth's best interest to attend a new school, the best interest determination shall also include the date when the child/youth will change schools. The child/youth shall remain in the school of origin until this date. It is presumed to be in a child/youth's best interest to be in the least restrictive environment and to transfer at natural transitions such as the beginning of the school year or academic term.

5. The county department shall make the best interest determination in collaboration with the LEA and other participants and in consideration of the following non-exhaustive factors, as relevant:
  - a. Child/youth's wishes,
  - b. Child/youth's safety,
  - c. How the school of origin can meet the child/youth's academic and non-academic needs (including special education, extra-curricular activities, social, emotional, and other needs). In considering the child/youth's needs, the county department shall give special weight to whether the child/youth has a meaningful and appropriate relationship with an adult at the school of origin,
  - d. How the potential new school could meet the child/youth's academic and non-academic needs, including special education, extra-curricular activities, social, emotional, and other needs,
  - e. How the decision impacts the child/youth's permanency goal(s), and
  - f. The length of travel and impact on the child/youth.
  - g. The cost of transportation is not a permissible consideration in determining the child/youth's best interest.

6. If the county determines that it is not in a child/youth's best interest to remain in the same school, the school district shall immediately, on the date designated in the best interest determination, enroll the child/youth in a new school, even without records normally required for enrollment, pursuant to the every child/youth succeeds act, 42 U.S.C. § 675(1)(G)(ii). In order to facilitate transfers at natural academic transitions whenever possible, "immediately" means the date designated in the best interest determination, not necessarily the date the determination is made.
7. The county department shall inform the parent(s), guardian ad litem, and educational surrogate parent, if any, of the best interest determination within one business day of making the determination. The notification shall serve as the first day in the dispute resolution time frames described in section 7.301.24, D, 8.
8. Disputes regarding best interest determinations shall be handled in a manner that promotes the child/youth's safety and stability, as follows:

If the parent(s), guardian ad litem, and/or educational surrogate parent, if any, is a party to an accompanying court case and disagrees with the county department's best interest determination, he or she must file a motion with the juvenile court to seek judicial resolution. Such a motion must be filed within three business days of the notice of the county's determination. If the county receives such a motion, the child/youth shall remain in the school of origin pending dispute resolution, unless remaining in the school poses a specific, documented threat to the child/youth's safety. If such parties indicate their agreement to a school move, the county need not delay the move pending the three-day appeal period.
- E. County departments and LEAs shall collaborate to ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner. County departments and LEAs shall collaborate to develop systems-level transportation plans, including how transportation will be provided, arranged, and funded for the duration of time the child/youth is in foster care. Transportation plans may be developed at the local and/or regional levels.
- F. County departments shall document efforts to ensure the child/youth meets the state compulsory attendance requirements.
- G. Procedures for special education evaluations when children are in out-of-home care:
  1. If a child/youth is suspected to have a disability affecting his or her education, the caseworker shall make a written referral for a special education evaluation to the designated representatives of the child/youth's school district of jurisdiction, which is the district where the child is a resident for educational purposes, before a non-emergency placement in a residential child care facility.
  2. Upon any placement of a child/youth with a disability or suspected of having a disability into a residential child care facility, the caseworker shall make a verbal notification within five working days and a written notification within fifteen calendar days to the school district of jurisdiction after the placement.
  3. Educational costs of placements are not reimbursable to the county department until after notice of the placement is given to the school district of jurisdiction.

4. If the special education evaluation results in a determination that the child/youth is disabled pursuant to section 504 of the rehabilitation act and/or the individuals with disabilities education act, which means that the child/youth qualifies for disability accommodations and/or special education services, the county and district of jurisdiction shall meet to determine if the educational needs of the child/youth can be met in the placement or the Core Services program.
5. If the child/youth is not eligible for disability accommodations and/or special education services, the county may be responsible for educational costs.

**7.301.242 Procedures for Maintaining Education Records [Rev. eff. 4/1/12]**

For children/youth in out-of-home placement, the county department shall maintain records within the case file and/or in the fields available in the education section of the automated system that include, but are not limited to, identification of:

- A. School name and address at the time of removal from the home.
- B. Current school name, address, and telephone number.
- C. Grade or classroom designation.
- D. Most recent end-of-term grades or other school district approved progress reporting method if grades are not issued.
- E. Educational needs including, but not limited to, special education and summaries of the efforts of the county department to address the needs.
- F. Educational plans based on individual needs, including an IEP.
- G. Educationally based evaluations.

**7.301.243 Early Intervention and Supports for Children Birth to Age of 3 in Out-of-Home Placement, Part C, of the Individuals with Disabilities Education Act (IDEA)**

- A. Documentation of referral, services, and planning shall be recorded in the education section of the automated system.
- B. Infants and children under age 3 who may have delays in development or established conditions associated with a disability shall be referred to the local "Child Find" effort. The local "Child Find" may be the School District/Board of Cooperative Educational Services (BOCES), Early Childhood Connections (ECC) organization, or an appropriate community resource for assessment for the identification of needs that may impact the child's development.
- C. The county department shall participate with the school district and/or ECC; or community resource, family, and other pertinent individuals to develop a plan to address identified service and support needs and for transition planning.

**7.301.3 FAMILY SERVICES PLAN REVIEW AND UPDATES**

A continuing reassessment and documentation of the Family Services Plan in relationship to progress to goals shall be done. If a significant change in client service needs occurs, a redetermination of eligibility and/or a reassessment of services shall occur and the Family Services Plan shall be amended, if applicable.

- A. The Family Services Plan shall be reassessed prior to termination of the plan.
- B. The reassessment should be performed jointly with the client and in situations where joint evaluation cannot occur, the reasons shall be documented in the case record.
  - 1. Family members' signatures should be obtained on the plan at the time of the review.
  - 2. Family members should be advised of the child welfare grievance resolution process of the county.
- C. When assessment indicates reunification is appropriate, the Family Services Plan shall be updated to reflect the specific time frame and services necessary for the child to be safely returned to and maintained in the home.
- D. The results of the review shall be documented in the case record.
- E. The Family Services Plan shall be reviewed in conference with the caseworker and supervisor every 90 calendar days. The six month Administrative Review of children in out-of-home placement may substitute for a 90 days review. The conference shall address:
  - 1. Appropriateness of the services being provided to the child, parent(s) and foster parent(s), if applicable;
  - 2. If applicable, appropriateness of the child's placement and how it meets the child's needs;
  - 3. That the child's safety is protected in the placement;
  - 4. The child, the parents, and other appropriate family members are receiving the specific services mandated by the Family Services Plan and are progressing toward the specific objectives identified in the plan;
  - 5. Identification of barriers hindering the progress;
  - 6. Appropriateness of existing timetables;
  - 7. Whether additional or different services are needed and how they will be provided;
  - 8. Appropriateness of the child's permanency goal:
    - a. Appropriateness of efforts to finalize a permanent plan;
    - b. Appropriateness of efforts to finalize a permanent placement.
  - 9. In those cases in which there are multiple service providers, whether the provision of services is coordinated to assure the timely delivery of mandated services.
- F. The following cases are to be set for further review by the county department:
  - 1. All cases in which a child has been placed in four different placements, excluding a return home;
  - 2. All cases in which a child has a current goal of return home for more than twenty four months;

3. All cases in which the child has had a permanency goal of adoption for more than one year and has not been placed in an adoptive home; and,
4. All children who have been returned home and have re- entered care more than twice and have a current plan of return home.
5. All children for whom the permanency goal is another planned permanent living arrangement.

### **7.302 CHILD WELFARE CHILD CARE [Rev. eff. 4/1/12]**

Child Welfare Child Care is a service to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. Child Welfare Child Care is not twenty-four (24) hour care.

Child care services for school-age children during regular school hours must be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado Exceptional Children's Act.

#### **7.302.1 ELIGIBILITY CRITERIA**

In addition to meeting eligibility requirements in the General Information and Policies section, the county department shall ensure that there are no other child care options available and the child is eligible for Program Area 4, 5, or 6 as described in this manual.

#### **7.302.2 CHILD CARE ARRANGEMENT AND FAMILY SERVICES PLAN [Rev. eff. 4/1/12]**

The county department shall:

- A. Complete the relevant sections of the Family Services Plan.
- B. Document how the child care plan provides for effective intervention for maintaining children in their own homes or in the least restrictive out-of-home care.
- C. Provide the client with information concerning child care services.
- D. Have face-to-face or telephone contact with the child and/or family a minimum of once a month, and with the provider a minimum of quarterly when the reason for the child care is child protection. These contacts shall include a discussion of current progress and future direction. If the child is in placement, the contact requirements in Section 7.001.6 (12 CCR 2509-1) shall be used.
- E. Assess a client fee when applicable. Refer to Section 3.905, B (9 CCR 2503-1).
- F. Develop written criteria to be used to determine when the State set parental fee should be waived.
- G. Follow State rules for the Colorado Child Care Assistance Program (CCCAP) as found in rule manual Volume 3 "Income Maintenance", Section 3.900 et seq. (9 CCR 2503-1).

### **7.303 CORE SERVICES PROGRAM**

#### **7.303.1 DEFINITIONS [Rev. eff. 1/1/15]**

The Core Services Program consists of the following services:



- A. "Aftercare Services": any of the Core services provided to prepare a child for reunification with his/her family or other permanent placement and to prevent future out-of-home placement of the child.
- B. "County Designed Services": innovative and/or otherwise unavailable services proposed by a county that meet the goals of the Core Services Program.
- C. "Day Treatment": comprehensive, highly structured services that provide education to children and therapy to children and their families.
- D. "Home Based Intervention": services provided primarily in the home of the client and includes a variety of services which can include therapeutic services, concrete services, collateral services and crisis intervention directed to meet the needs of the child and family. See Section 7.303.14 for service elements of therapeutic, concrete, collateral, and crisis intervention services.
- E. "Intensive Family Therapy": therapeutic intervention typically with all family members to improve family communication, functioning, and relationships.
- F. "Life Skills": services provided primarily in the home that teach household management, effectively accessing community resources, parenting techniques, and family conflict management.
- G. "Mental Health Services": diagnostic and/or therapeutic services to assist in the development of the family services plan, to assess and/or improve family communication, functioning, and relationships.
- H. "Sexual Abuse Treatment": therapeutic intervention designed to address issues and behaviors related to sexual abuse victimization, sexual dysfunction, sexual abuse perpetration, and to prevent further sexual abuse and victimization.
- I. "Special Economic Assistance" means emergency financial assistance of not more than \$2,000 per family per year in the form of cash and/or vendor payment to purchase hard services. See Section 7.303.14 for service elements of hard services.
- J. "Substance Abuse Treatment Services": diagnostic and/or therapeutic services to assist in the development of the family service plan, to assess and/or improve family communication, functioning and relationships, and to prevent further abuse of drugs or alcohol.

**7.303.11 Program Goals [Rev. eff. 1/1/14]**

The goals of the Core Services Program are to:

- A. Focus on the family strengths by directing intensive services that support and strengthen the family and/or protect the child;
- B. Prevent out-of-home placement of the child;
- C. Return children in placement to their own home; or,
- D. Unite children with their permanent families.
- E. Provide services that protect the child.

“To return children in placement to their own home or to unite children with their permanent families” is defined as return to the home of a parent, an adoptive placement, guardianship, independent living placement, foster-adoption placement or to live with a relative/kin if the goal for the child in the Family Services Plan is to remain in the placement on a permanent basis.

**7.303.12 Access**

County departments must make all of the Core services, except for county designed services, available to any client who meets the criteria for the service as documented in the Family Services Plan.

**7.303.13 Program Eligibility [Rev. eff. 1/1/14]**

In order to be eligible for the Core Services Program, each child, youth, and family shall:

- A. Meet Program Area Three eligibility criteria; or,
- B. Meet the criteria for Program Area 4, 5, or 6 target group; and,
  - 1. Meet the Colorado out-of-home placement criteria at the time of each placement in any Core Services Program; and/or,
  - 2. Require a more restrictive level of care but may be maintained at a less restrictive out-of-home placement or in his/her own home with Core Services.

**7.303.14 Service Elements**

Core Services Programs may include any of the following elements of service:

- A. “Collateral Services”: teaching families to work with community agencies such as health care, mental health treatment services, substance abuse treatment services, job training, information and referral, advocacy groups, housing assistance agencies, and schools.
- B. “Concrete Services”: concentrated assistance in the development and enhancement of parenting skills, stress reduction, problem solving, communication skills, budget and household management and recreational activities.
- C. “Crisis Intervention Services”: phone or in-home counseling, medical services, respite or other interventions available on a 24-hour basis.
- D. “Diagnostic and Treatment Planning Services”: various evaluations of the child and family to facilitate the development of the Family Services Plan and the move of the child to a permanent placement.
- E. “Hard Services”: the purchase of services or distribution of cash payments for the following:
  - housing funds, including rent, repairs, utilities, or rent deposits
  - food or money for food
  - clothing
  - transportation to include fares, auto repair, auto fuel, auto insurance or bus pass
  - uncovered medical or dental expenses

- appliances, furniture
- emergency shelter
- employment related expenses, such as tools or dues

F. "Therapeutic Services": interactive parenting, family therapy, support groups, educational groups, problem solving methods, communication skills, and parent-child conflict management.

**7.303.15 Service Time Frames**

- A. Services may be provided for up to eighteen (18) months.
- B. One or more six month extensions to the initial eighteen months placement are optional if approved by an internal county department administrative review and documentation of approval is in the case record. The in-house review shall include casework or supervisory staff and one or more administrators not providing direct services to the family.

**7.303.16 Workload Standards**

- A. Each worker engaged in home based intervention, intensive family therapy, and sexual abuse treatment programs shall have at least two (2) and not more than twelve (12) at risk families depending on the intensity of service needed per family.
- B. Life skills shall have staff persons assigned to work no more than twenty (20) families.
- C. Supervisory workload ratio shall be six (6) caseworkers per supervisor. Contractors shall provide comparable supervision.

**7.303.17 Performance Indicators [Rev. eff. 4/1/12]**

Core Services Program success shall be measured by the degree to which the following performance indicators identified in the Family Services Plan are achieved by clients.

- A. "Family Conflict Management": The family shall demonstrate capacity to resolve conflicts and disagreements contributing to child maltreatment, running away, status offenses and delinquent behavior.
- B. "Parental Competency": Parents will show ability to maintain sound relationships with their children and provide care, nutrition, hygiene, discipline, protection, instructions, and supervision.
- C. "Household Management Competency": Parents will be able to provide safe environment for their children through competent household cleaning and maintenance, budgeting and purchasing, and structuring mealtime and families activities.
- D. "Resources Access Competency": Parents will demonstrate ability to obtain help from the community and within the local, state, and federal governments.
- E. "Personal and Individual Competency": Families will show awareness in terms of self-esteem, victim awareness, management of one's own history of victimization, sex education, peer relationships enhancement establishing appropriate physical and emotional boundaries for themselves and for their children, demonstrating assertive behavior, and assuming responsibility for one's own behavior.

- F. “Academic, Behavioral and Emotional Competency”: Children involved in day treatment settings will demonstrate ability to meet school requirements, to control behavior, and to control and communicate feelings.
- G. “Competence in Maintaining Sobriety”: Parents will be able to maintain sobriety and/or develop relapse plans to provide for the care, nutrition, hygiene, discipline, protection, instruction, and supervision of the child(ren). Child(ren) will be able to maintain sobriety and/or develop relapse plans to avoid running away, status offenses, or delinquent behavior.

The county department shall identify the degree to which the client met the treatment goals by entering the appropriate service leave reason on the Department's automated reporting system when closing the service on the Department's automated reporting system.

### **7.303.2 INTEGRATED CARE MANAGEMENT PROGRAM**

#### **7.303.21 Definition**

Integrated Care Management (ICM) allows a county-optional, State-approved plan for the provision of selected child and family services. County ICM plans shall identify specific principles, activities, and program components to improve outcomes for children, youth, and families; to support best practices; to advance selected care management strategies; to improve quality and accountability; and, to provide cost efficient delivery of needed services.

#### **7.303.22 Program Goals**

The goals of the Integrated Care Management program shall include:

- A. More efficient and responsive services systems for children, youth and families.
- B. Increased flexibility and collaboration across multiple agencies and funding streams to meet consumer needs and avoid cost shifting between systems.
- C. Encouragement and authorization for an integrated services system that incorporates blended funding and administration.
- D. Focus on quality and outcome driven services with accountability for an entire array of services that families need.
- E. Development of data systems to support these goals and to allow administrators and policy makers to better manage and evaluate.

#### **7.303.23 Availability**

Integrated Care Management is an optional program for individual county or groups of counties. Counties may elect to participate by operating a State approved Integrated Care Management program.

#### **7.303.24 Program Eligibility**

County departments shall define program eligibility criteria in the proposed plan, which must include all program components and define how each principle will be implemented. The county programs will be approved by the State Department.

**7.303.25 Program Components**

Each plan must contain the following program components. Counties may operationalize the program components as listed beneath each component or in another manner approved by the State Department.

- A. Utilization Management (UM) - A system of inter-agency services review and approval procedures designed to ensure that the services provided to a specific child or family at a given time are cost-effective, clinically appropriate and least restrictive. The goal of utilization management is to provide the most appropriate, least restrictive service that meets the needs of the child and the family. Utilization management may include:
  - 1. Application implemented with any or all of the services used by the county departments.
  - 2. Concurrent review activities that focus on reducing or increasing any level of service and may be conducted by dedicated staff and/or a multi-agency review team.
  - 3. Written UM guidelines including standardized UM processes and criteria for UM that may include definitions for key levels of care.
  - 4. Provider profiling where data is supplementally tracked, differentiating provider performance and competencies.
- B. Case Management (CM) - Refers to a process by which the services provided to a specific child or family are tracked and managed to achieve optimum, cost effective outcomes. Case management activities may include:
  - 1. Identification and tracking of selected cases or types of cases.
  - 2. Systematic management approach that integrates tracking and targeting of cases for identified, targeted interventions and outcomes.
  - 3. Varying levels of case management across different providers integrating provider profiling and collaborative activities, such as involving providers in case management activities.
  - 4. Procedures which minimize time between referral and delivery of care, and provide dedicated resources and support for any or all of service referrals.
  - 5. Prevention and early intervention in which the county offers supports before more intensive intervention is needed.
- C. Resource Strategies - Involve efforts to organize and manage resources to achieve the goals of the county department paying for care. Resource strategies may include:
  - 1. Contract incentives employing shared risks or performance incentives to influence provider behavior and service delivery.
  - 2. Provider resource structure offering efficiencies and standardized care approaches that promote efficient and appropriate care delivery.
  - 3. Resource blending using collaborative efforts with other child and family serving agencies.
- D. Information Management Strategies (IM) - the identification, collection, analysis and use of various types of data to further the county's mission and goals. IM may include:

1. Tracking information related to service use including identifying service utilization costs, aggregating and reporting.
  2. Creating routine reports and IM activities including trend analyses by case type, provider, services category and other variables; or using complex multi-level analyses to identify cost drivers and adjust risks.
- E. Collaborative Integration (CI) - Inclusion of consumers and agencies in the community in the development of the agency's vision, mission and goals and in the implementation of the ICM program. Formal efforts may be directed at coordinating services, integrating care and cooperation between agencies and consumers and may include:
1. Plans for integration, contractual agreements or blending of resources with community agencies.
  2. Strategies to utilize formal and informal community based organizations and family support networks to ensure child safety and promote child and family well-being.
  3. Plans to have formal inter-agency agreements, Memorandums of Understanding and contracts with community based organizations and a process to engage community partners.
- F. Quality Improvement (QI) - Formal organizational processes that emphasize the ongoing improvement of both the process of service delivery and client outcomes through the incorporation of data driven approaches and the institution of systems of monitoring, feedback and organizational learning. QI activities may include:
1. Implementing a formal QI process, which may be narrowly, implemented expanding over time to agency-wide including a written plan and formal process.
  2. Implementing a training schedule that trains staff on some aspect of any of the ICM principles or information obtained as a result of use of the principles, such as the outcome of the quality improvement process.
  3. Implementing Quality Improvement activities for at least one high cost driver and having dedicated staff for QI activities.

### **7.303.3 COLLABORATIVE MANAGEMENT PROGRAM [Rev. eff. 8/1/15]**

The Collaborative Management Program (CMP) is an optional county program approved by the Department of Human Services for a uniform system for agencies to share resources or to manage and integrate the treatment and services provided to children, youth, and families who would benefit from a multi-system approach to services and service delivery.

#### **7.303.31 Program Goals [Rev. eff. 8/1/15]**

The goals of the Collaborative Management Program include:

- A. Reducing duplication and fragmentation of services to children, youth, and/or families who would benefit from integrated multi-agency services or approach;
- B. Increasing the quality, appropriateness, and effectiveness of services provided to children, youth or families who would benefit from integrated multi-agency services or approach; and,
- C. Encouraging cost sharing among service providers.

**7.303.32 Availability [Rev. eff. 8/1/15]**

- A. Collaborative Management is an optional program for an individual county or groups of counties. Counties may elect to participate by entering into a Memorandum of Understanding (MOU) that is designed to promote a collaborative system to coordinate and manage the provision of services to children, youth, and families who would benefit from an integrated multi-system approach to service and service delivery. Counties must use the MOU template provided by the State and developed in conjunction with the Colorado Judicial Districts.
- B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies:
  - 1. The local judicial district(s), including probation services;
  - 2. The health department, whether a county, district, or regional health department;
  - 3. The local school district(s);
  - 4. Each community mental health center;
  - 5. Each Behavioral Health Organization (BHO);
  - 6. The Division of Youth Corrections;
  - 7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and,
  - 8. A community domestic abuse program, if representation is available.
- C. Counties electing to participate in the MOU may add non-mandatory partners or organizations and are encouraged to include a family member or family advocacy organization as defined in Section 26-18-102, C.R.S., and a youth member or youth advocacy organization.
- D. Counties will be provided with guidance/instructions for the completion of the MOU established by the State Department to help in the completion of the MOU process.
- E. Counties will be provided with a third quarter progress report by the State Department to help in the election of the performance measures for the MOU.
- F. MOUs must be submitted to the Colorado Department of Human Services on or before May 1st of the fiscal year prior to the MOU agreement year for review and feedback. Completed MOUs, including all signatures, are due on June 30th of the fiscal year prior to the MOU agreement year. Any MOU received after that date will not be accepted and will result in a loss of funding for the next fiscal year.
- G. Reviews of each county's MOU will be completed by the State Department and will consist of a review and completion of the MOU review checklist. The review checklist consists of the following areas:
  - 1. A list of mandated partners;
  - 2. MOU deadlines;
  - 3. Oversight group documentation;

4. Target population review;
  5. Services provided review;
  6. Funding sources review;
  7. Reinvestment of funds review;
  8. Collaborative Management process review;
  9. Performance-based measures review;
  10. Confidentiality compliance review; and,
  11. Review of required signatures.
- H. Each Collaborative Management Program that meets the criteria will receive a signed letter of acceptance from the State Department approving the MOU for the next fiscal year within fifteen (15) days of such approval.

**7.303.33 Program Components [Rev. eff. 8/1/15]**

Each Memorandum of Understanding (MOU) shall contain the following program components.

**A. Interagency Oversight Group (IOG)**

A system of inter-agency oversight will be developed in the MOU through the creation of an Interagency Oversight Group (IOG). Each IOG must include a local representative of each party to the MOU, each of whom shall be a voting member of the IOG. In addition, the IOG may include advisory members.

1. The MOU shall define the following components of the IOG:
  - a. Membership requirements;
  - B. The status of each party as a voting member or advisory member;
  - C. Procedures for election of officers;
  - D. Procedures for resolving disputes by a majority vote of voting members; and,
  - E. Procedures for the development of subcommittee groups.
2. These components shall be maintained in each IOG's by-laws or procedure guide.

**B. Target Population**

The CMP target population consists of at-risk children and youth ages birth through twenty one (21) years of age and their families who would benefit from a multi-system approach or integrated service plan as defined in the MOU. Each MOU must include the population that will be served through the designated Individualized Service and Support Team (ISST) or multi-system involved team(s) and CMP prevention programs. Children and youth who are at-risk will be determined in accordance with parties to the MOU.



1. The ISST or multi-system involved team must include multiple disciplines in the delivery of services for the target population.
2. CMP prevention programs must demonstrate a multi-systemic approach. Programs must demonstrate in the MOU that multiple disciplines were involved in the development or enhancement of the program or that multiple agencies are involved in the delivery of the service.
3. Programs must demonstrate that the program was developed to reduce bifurcated services aimed at the same outcome and demonstrate, if not provided through CMP, the bifurcated approach would bestow a burden to each of the systems. Each MOU must articulate how the joint approach will benefit children, youth, and/or families in their communities.

**C. Elements of Collaborative Management**

Each county/region MOU must establish a collaborative management process that addresses:

1. Risk sharing;
2. Resource pooling;
3. Performance expectations;
4. Outcome monitoring; and,
5. Staff training.

The definitions of each for the elements of Collaborative Management shall be maintained by each IOG's by-laws or procedure guide and provided as an appendix to the MOU on an annual basis.

**D. Monitoring**

The Department will monitor at least one CMP per quarter to ensure implementation of the collaborative management program in accordance with statutes, rules, and the MOU.

1. CMP monitoring will include:
  - a. A review of the IOG process;
  - b. A review of the by-laws or procedure guide ensuring it includes the elements required in statute and rule; and,
  - c. The accuracy and reliability of county-level program performance data.
2. A review of prevention programs to ensure that each is in compliance with the definitions outlined under target population in the MOU.
3. A review of the data reporting for all program components and expenditure data.
4. Each county/region must enter all participants served through the CMP program's target populations: demographics, services, outcomes, and expenditures in the designated data collection system as determined by the Department, so that it can be tracked and monitored.

**7.303.34 Reporting [Rev. eff. 8/1/15]**

Each IOG must provide an annual report to the State Department that includes:

- A. The actual number of children, youth and/or families served through the Individualized Service and Support Team (ISST) or multi-system involved staffing and the outcomes of the services provided, including a description of any reduction in duplication or fragmentation of services provided and a description of any significant improvement in outcomes for children, youth and/or families;
- B. The actual number of children, youth, and/or families served through the multi-systemic prevention program and the outcomes of the services provided, including a description of any reduction in duplication or fragmentation of services provided and a description of any significant improvement in outcomes for children, youth, and or families;
- C. A description of estimated costs of implementing the Collaborative Management Program and any estimated cost-shifting or cost-savings that may have occurred;
- D. An accounting of funds that were reinvested in additional services provided to children, youth, and/or families due to cost-savings that may have resulted from exceeding performance measures; and,
- E. A description of any identified barriers to provide effective services.

**7.303.35 Incentive Funding for Performance Measures [Rev. eff. 8/1/15]**

In order to receive incentive funds, the county must implement Collaborative Management components, achieve performance measures indicated in its MOU, and have a signed Collaborative Management MOU accepted by the Colorado Department of Human Services, Division of Child Welfare, on or before June 30 of the current fiscal year.

A funding formula based on a Collaborative Management Program (CMP) site meeting three process measures and three performance measures will determine the CMP's portion of the incentive funding allocation.

- A. Counties will receive the meaningful minimum based on county size and meeting process measures of Collaborative Management. IOGs will be required to meet three of the following six process measures in order to receive the meaningful minimum funds.
  - 1. IOG Meeting Attendance  
  
Measure: mandatory members of the IOG will be present 75% of the time at the four required meetings in a fiscal year. Sign-in sheets and meeting minutes will confirm attendance.
  - 2. Family Agency or Member Participation on the IOG  
  
Measure: a voting family member or agency will be in attendance at 50% of all IOG meetings held within the fiscal year. Sign-in sheets and meeting minutes will confirm attendance.
  - 3. 75% of the Agencies Contribute Resources at Service Level, Either In-Kind or Actual Monies

Measure: all integrated service plans identify two or more agencies in the plan. A copy of those service plans will be retained by the CMP coordinators.

4. Use of Evidence Based or Evidence Informed Practices

Measure: at least one evidence based or evidence informed practice will be implemented under the IOG, as reflected in the expenditures section of the annual report.

5. Process of Continuous Quality Improvement Used by the IOG

Measure: IOG will meet no less than quarterly and meeting minutes will reflect the continuous quality improvement practices used to inform and improve efforts.

6. Evidence of Cost-Sharing Among IOG Members

Measure: cost-sharing will be reflected in the expenditures section of the annual report.

B. Performance measures issued by the department each fiscal year and population served will determine the remainder of the incentive funding allocation.

1. Population served will be actual number of clients served that year.

2. IOGs must choose three standard performance measures to strive to achieve in their MOU. For every performance measure achieved, a county will receive funding based on a weighting system. The weighting will be based on population served and number of outcomes achieved that were selected in their MOU.

**7.303.36 General Fund Savings and Distribution [Rev. eff. 8/1/15]**

County departments must elect to either retain the state general share of the county under-expenditure of the General Fund county child welfare block allocation or participate in surplus distribution for each fiscal year in their MOU. If a county/region chooses to retain the savings realized, they must specify the procedure by which such savings will be reinvested, including to which parties to the MOU such reinvested savings will be available.

The Department, after input from the Child Welfare Allocations Committee, shall develop the method for determining General Fund savings realized as the result of counties' implementation of a collaborative system of management of multi-agency services provided to children and families related to the funding sources specified in an MOU.

**7.303.4 HUMAN TRAFFICKING [Eff. 11/1/15]**

A. In any open Program Area 4, 5 or 6, when the county department of human or social services has reason to believe a child/youth is, or is at risk of being, a victim of sex trafficking the county department shall:

1. screen the child/youth for risk of sex trafficking using a state approved sex trafficking screen;
2. determine service needs;
3. Document the details of the SCREEN, assessment, and services in the state automated case management system;

4. Report immediately, and no later than twenty-four (24) hours from when the county department becomes aware, to the local law enforcement agency; and,
  5. Document the details of the report to law enforcement in the state automated case management system.
- B. If a child/youth who is in the legal custody of the county department of human or social services is missing then the county departments shall:
1. Report immediately and no later than twenty-four (24) hours from when the county department receives notification that the child/youth is missing, to the local law enforcement agency and to the National Center for Missing and Exploited Children (NCMEC). The county department shall document the details of the reports in the state automated case management system.
  2. Make reasonable efforts to locate a child/youth who is missing and document those efforts a minimum of once per month in the state automated case management system:
  3. Upon the return of the child/youth, make reasonable efforts to complete the following activities and document those efforts in the state automated case management system:
    - a. Determine the primary factors that contributed to the child/youth being missing;
    - b. Determine the child/youth's experiences while missing, including conducting sex trafficking screen to determine if the child/youth is a possible sex trafficking victim; and,
    - c. Respond to factors identified in 3, A and B, above, in current and subsequent services.

## **7.304 PLACEMENT SERVICES**

### **7.304.1 DESCRIPTION [Rev. eff. 1/1/16]**

- A. Placement services are services provided to children in Program Areas 4, 5, and 6 who:
1. Meet the criteria for out-of-home placement and the target group criteria; and,
  2. Are placed outside their homes because of a temporary emergency removal by law enforcement, court action, or a voluntary placement agreement; and,
  3. Are in a placement approved by the county department.
- B. The range of placement services for children for whom the goal is to return home includes kinship care, foster care homes, specialized group facilities, and residential child care facilities.
- C. The range of placement services for children for whom the goal is not to return home includes adoption, kinship care, foster care homes, specialized group facilities, and residential child care facilities.
- D. Placement options in this section do not apply to American Indian/Native Alaskan children. Refer to Section 7.309.7 for order of placement preference as required by the Indian Child Welfare Act.

**7.304.2 PLACEMENT OPTIONS**

**7.304.21 Kinship Care [Rev. eff. 1/1/17]**

- A. Definition: Refer to Section 7.000.2 (12 CCR 2509-1) for the definition of “kin” and “non-certified kinship care”.
- B. Kinship care shall be utilized in order to:
  - 1. Maintain child(ren)/youth in their families or with persons with whom they have a family like or prior significant relationship in order to provide meaningful, emotional and cultural ties across their life span.
  - 2. Minimize the trauma of out-of-home placement.
  - 3. Support and strengthen families' ability to protect their child(ren)/youth and to provide permanency.
- C. Kinship care: Assessment and Decision-Making
  - 1. If during an assessment it is discovered that the child(ren)/youth and their parents are living with kin:
    - a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with their parents.
    - b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).
  - 2. If during an assessment it is discovered that the child(ren)/youth are not living with their parents, but with kin:
    - a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with kin through arrangements made by the family.
    - b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).
    - c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.
  - 3. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family agrees to a temporary living arrangement with kin through the use of a safety plan:
    - a) The assessment cannot be closed until one of the following:
      - 1) The child(ren)/youth have been returned to the care of their caregiver(s);
      - 2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,
      - 3) A child welfare case has been opened.
    - b) The child(ren)/youth are not considered to be in out-of-home care as the arrangements are made through a safety plan.

- c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.
  - d) If a case is not opened, the rules for assessment apply (see Section 7.104 et seq. [12 CCR 2509-2]).
  - e) If a case is opened, the permanency goal is identified as return home from kinship care and the child(ren)/youth are considered in kinship care. A removal is not opened and the rules for non-certified kinship care apply when the county department has not assumed legal authority for placement or taken legal custody (see Section 7.304.21, D).
- 4. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family will not agree to a temporary living arrangement with kin through the use of a safety plan:
  - A) The assessment cannot be closed until one of the following occurs:
    - 1) The child(ren)/youth have been returned to the care of their caregiver(s);
    - 2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,
    - 3) A child welfare case has been opened.
  - b) Child(ren)/youth are considered to be in out-of-home care and a removal is required.
  - c) Kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.
  - d) The rules for kinship care apply when the county department has assumed legal authority for placement or taken legal custody (see Section 7.304.21, E).
- D. Kinship care services when the county department has not assumed legal authority for placement or taken legal custody, the county department shall:
  - 1. Enable the family to make voluntary arrangements for temporary custody or guardianship by kin;
  - 2. Provide parents and kin caring for the child(ren)/youth services to ensure the child(ren)/youth's safety, well-being, and smooth transition back to the parent's home. When return to parent's home is not a viable option, services to kin shall be used to help to provide permanency for the child(ren)/youth. The child(ren)/youth may receive such services without court involvement.;
  - 3. Evaluate the non-certified kinship family addressing the areas of: safety, parenting skills, potential for permanency, needs of the kinship family, a support system, strengths and any other areas deemed necessary by the county department.
  - 4. Ensure initiation of a signed original application to provide care for child(ren)/youth or a state approved, county specific kinship application at the time of change in a child(ren)/youth's living arrangement and document completion in the state automated child welfare information system.

5. Advise the kinship providers of the types of support listed in 7.304.21, E, 3.
6. Complete a background check for each adult (18 years and older) living in the home. These checks shall be completed prior to the child(ren)/youth's change in living arrangement and documented in the state automated case management system. The background check shall include:
  - a. Child abuse and/or neglect records in every state where any adult residing in the home has lived in the five years immediately preceding the date of application, except that child abuse and neglect records in other states where an adult has resided shall be initiated no later than seven (7) working days following placement.
  - b. Fingerprint-based criminal history record information checks from the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI) shall be conducted prior to placement unless it is an emergency placement (see Section 7.304.21, E, 2, f) in order to determine if any adult who resides in the home has been convicted (see Section 7.000.2 [12 CCR 2509-1]) of:
    - 1) Child abuse, as specified in Section 18-6-401, C.R.S.;
    - 2) A crime of violence, as defined in Section 18-1.3-406(B)(I), C.R.S.;
    - 3) An offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;
    - 4) A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3(1), C.R.S.;
    - 5) A felony involving physical assault, battery, or a drug-related offense within five years of the date of application;
    - 6) A pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. (see Section 7.000.2 [12 CCR 2509-1])
    - 7) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in 1-6, above.
  - c. Review the court case management system of the State Judicial Department and include a copy of the information in the case record; and,
  - d. Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and include a copy of the information in the case record:
    - 1) Known names and addresses of each adult residing in the home; and,
    - 2) Address only of the non-certified kinship care home.

7. Receive affirmation of the placement either through a court order or county director(s) affirmation to place or allow continued placement of a child(ren)/youth with a non-certified kin or other adult living in the home that would otherwise be disqualified in Section 7.304.21, D, 8 and 9.
  8. Decline placement of a child(ren)/youth in the home if the kin or any adult eighteen (18) years of age or older who resides in the home has been convicted of any offense described in Section D, 6, B, 1-7, is a registered sex offender or, is determined unsafe following a review of a finding of child abuse and/or neglect in the state automated case management system.
  9. Evaluate the appropriateness of the placement. If a disqualifying factor (refer to Section 7.000.2, 12 CCR 2509-1) is identified following the placement of a child(ren)/youth in a non-certified kinship care home, a plan shall be developed as soon as possible and documented in the state automated case management system to address and remedy the concerns no later than two weeks after the date of placement. The plan shall include the following:
    - a. The circumstances of the placement;
    - b. The vulnerability of the child(ren)/youth, including age and development;
    - c. Safety issues impacting the child(ren)/youth;
    - d. Supports needed by the non-certified kinship caregiver(s); and,
    - e. Alternative solutions to removal of the child(ren)/youth from the placement, and document the solution in the family service plan including, but not limited to, the family's current status in the following domains:
      - 1) Risk and safety;
      - 2) Level of functioning;
      - 3) Strengths;
      - 4) Specific areas of concern to be addressed;
      - 5) Services and supports needed; and,
      - 6) Changes that must occur to mitigate the concerns.
- E. Kinship care services when the county department has assumed legal authority for placement or been granted legal custody:
1. Eligible Populations: The child(ren)/youth shall meet the following criteria for placement in kinship care through the child welfare system:
    - a. Program Area 4, 5, or 6 target groups (refer to Section 7.000.1, 12 CCR 2509-1) and out-of-home placement criteria; and
    - b. There is legal authority for placement as defined in Section 7.304.51 and the Children's Code through a court order, a Dependency and Neglect or Delinquency action, emergency removal by law enforcement, or a voluntary



placement, followed within 90 calendar days by a Petition for Review of Need for Placement (PRNP).

2. Placement with Kinship Care Providers:

- a. When out-of-home placement is necessary, the county department shall determine whether there are available and willing kin to provide for the child(ren)/youth.
  - 1) Kinship care providers shall be advised of the types of support available to them through the county department including:
    - a) Family preservation,
    - b) Certification for kinship foster care, and
    - c) The relative guardianship assistance program (see Section 7.311, et seq).
  - 2) In the decision making process, funding and types of support including:
    - a) Kinship care may be considered a means of family preservation rather than a placement service.
    - b) The kinship caregiver(s) may become a foster care home. If the kinship caregiver prefers to be a kinship foster care home, the county director or his/her designee may allow a waiver of non-safety certification standards (see Section 7.708.7 (12 CCR 2509-8)).
    - c) Kinship caregivers for title IV-E eligible child(ren)/youth are entitled to the same level of reimbursement as non-related providers. Kinship caregivers may elect to receive no payment.
    - d) Other funding and support services, including in-kind or concrete services, can be put into place as mutually agreed upon with the provider.
  - 3) Relative kinship care providers and potential relative kinship care providers shall be informed about the types of support noted in 7.304.21, E, 2, a, 1. The information provided, including the date(s), shall be documented in the statewide automated child welfare information system.
- b. Parent(s) shall be included as part of the planning process when considering placement with kin unless there are documented reasons for their unavailability to participate.
- c. If kin are available and willing, the county department shall assess the suitability of kin in accordance with the foster care certification requirements found at Sections 7.500 (12 CCR 2509-6) and 7.708 (12 CCR 2509-8).

- d. If the parent(s) do not agree to a specific kinship placement, the county department shall request court ordered assessment for possible placement with kin, identify other kinship placement possibilities, and/or revisit possible kinship placement at a later time if out-of-home placement continues to be necessary. If the assessment is favorable, and the parent(s) still object to the kinship placement, the county department may request that the court order the kinship placement.
- e. When removal from parents or guardians occurs on an emergency basis, child(ren)/youth may be placed with kinship providers who may be provisionally certified as a kinship foster care home in accordance with Section 7.500.311, C and D (12 CCR 2509-6).
- f. When an emergency placement is necessary and a prospective relative or other available person is identified, and child(ren)/youth are placed into temporary custody by law enforcement and/or the court places temporary custody with a county department of human or social services the following actions shall occur prior to placement of child(ren)/youth in the home:
  - 1) The county department shall contact local law enforcement to conduct an initial name-based state and federal criminal history record check. The results of the criminal record check shall be provided verbally to the county department. The county department of human or social services or law enforcement shall immediately conduct an initial criminal history record check of the relative or other available person and all adults in the home. If law enforcement is completing the criminal history check, the county department of human or social services shall request a verbal report regarding each person's criminal history from federal and state databases, and include the results in the case record.
  - 2) The child(ren)/youth shall not be placed in the home if the criminal history record information check reflects one or more convictions of the criminal offenses listed in Subsection 7.304.21, D, 2, f, 7 unless ordered by the court.
  - 3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement or the county department of human or social services if a fingerprint machine is available to submit fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.
  - 4) The county department shall confirm timely submission of fingerprints from kin:

- a) With law enforcement: The county department shall contact the local law enforcement agency within fifteen (15) days following the placement of the child(ren)/youth to assure the potential provider reported for the purpose of obtaining fingerprints within the specified timeframe. If kin did not comply, then the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court; or,
  - b) When the county department of human or social services has a fingerprint machine: if kin did not comply, the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court.
- 5) A fingerprint-based criminal history record information check will be conducted by CBI using state and national CBI and FBI records. The local law enforcement agency is the authorized agency to receive the results.
- 6) If the fingerprint-based criminal history record information check indicates the person has a disqualifying criminal history, the county department of human or social services or local law enforcement officer shall immediately remove the child(ren)/youth from the emergency placement and shall not place a child(ren)/youth with the person who has the criminal history without court involvement and an order of the court affirming placement of the child(ren)/youth with the person.
- 7) A county department of human or social services or local law enforcement shall not make an emergency placement or continue the emergency placement of a child(ren)/youth with a person who has been convicted of one or more of the following offenses:
  - a) Child abuse, as specified in Section 18-6-401, C.R.S.;
  - b) A crime of violence, as defined in Section 18 1.3 406(B)(I), C.R.S.;
  - c) An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.;
  - d) A felony, the underlying actual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3(1), C.R.S.;
  - e) A felony involving physical assault or a drug-related offense, committed within the preceding five years;
  - f) Violation of a protection order, as described in Section 18-6-803.5, C.R.S.;
  - g) A crime involving homicide; or,

- h) An offense in any other state the elements of which are substantially similar to the elements of any one of the offenses described in a-g, above.
- 8) If a relative or other person was not disqualified as an emergency placement based upon the fingerprint-based criminal history record information check and the child(ren)/youth were placed in the emergency placement, the county department of human or social services shall complete the following checks for the relative or available person and all adults in the home:
  - a) Review the court case management system of the State Judicial Department and include a copy of the information in the case record;
  - b) Review the state automated case management system and the child abuse and/or neglect registries in all states the adults living in the home have resided in the five years preceding the date of application and include a copy of the information in the case record; and,
  - c) Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement, and annually, and include a copy of the information in the case record:
    - i) Known names and addresses of each adult residing in the home; and,
    - ii) Address only of the kinship home.
- 9) If information is found as a result of any checks of the relative or other available person that continued placement is unsafe, the county department of human or social services shall remove the child(ren)/youth.
- 10) If a disqualifying factor (refer to Section 7.002) and/or a concern about the safety of the child(ren)/youth is identified following the placement of the child(ren)/youth, the department of human or social services shall evaluate the appropriateness of continuing the placement. A plan shall be developed to address the concerns as soon as possible and the concerns shall be remedied no later than two weeks after the date of placement. The following shall be documented in the state automated case management system:
  - a) Review the circumstances of the placement;
  - b) Evaluate the vulnerability of the child(ren)/youth, including age and development;
  - c) Safety issues impacting the child(ren)/youth;
  - d) Supports needed by the non-certified kinship caregiver(s); and,

- e) Identify alternative solutions to removal of the child(ren)/youth from the placement, and document the solution in the family service plan including, but not limited to, the family's current status in the following domains:
  - i) Risk and safety;
  - ii) Level of functioning;
  - iii) Strengths;
  - iv) Specific areas of concern to be addressed;
  - v) Services and supports needed; and,
  - vi) Changes that must occur to mitigate the concerns.
- 11) Fingerprint-based criminal history record information checks are not required if the relative or other available person in the home completed them within the three months preceding date of placement. The following checks shall be completed and included in the case record, and documented in the state automated case management system:
  - a) State automated case management system;
  - b) The CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and annually:
    - i) Known names and addresses of each adult residing in the home; and,
    - ii) Address only of the kinship home.
  - c) Court case management system of the State Judicial Department; and,
  - d) Contact law enforcement to determine if any additional criminal history occurred or complete an online CBI name-based check.
- g. Substitution of Fingerprints for Foster Care Certification
  - 1) If the county department of human or social services or a child placement agency (when applicable) intends to accept an application for foster care, CBI shall be notified within five calendar days after requesting fingerprint-based criminal history record information checks in order to prompt flagging and automatic notification to the county department of human or social services or child placement agency when there are new criminal charges; and,
  - 2) The substitute fingerprint process meets the requirement for an applicant for foster care certification pursuant to Section 26-6-106.3, C.R.S.

- h. The reasonable and prudent parent standard requirements for a kinship provider or kinship foster parent to approve activities for a child(ren)/ or youth in foster care requires the following action: The county department of human or social services or child placement agency shall train the caregiver how to determine whether an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, when approving an age or developmentally appropriate activity identified in Section 7.701.200 (12 CCR 2509-8).
- 3. Decision Making:
  - a. As part of the assessment process, the county department of human or social services shall determine, with the kinship care provider, which funding options and support services will be necessary to support the placement. If the child(ren)/youth is eligible, at a minimum, the following funding sources shall be considered to support the child(ren)/youth in a kinship care placement:
    - 1) Child Support by the absent parent(s). For Child Support, a referral shall be made to child support services;
    - 2) Social Security and/or other death benefits;
    - 3) Supplemental Security Income; see Section 7.001.44 (12 CCR 2509-1);
    - 4) Supplemental Security for Disability Income;
    - 5) Temporary Assistance to Needy Families - for kinship care to be supported by Temporary Assistance to Needy Families, the caretaker must meet the Temporary Assistance to Needy Families definition in Section 3.600 of the Income Maintenance manual (9 CCR 2503-1);
    - 6) Tricare or other medical benefits;
    - 7) Medicaid;
    - 8) Core Services (Section 7.303);
    - 9) Child Welfare Child Care;
    - 10) Colorado Child Care Assistance Program;
    - 11) In-Kind Services or Donations;
    - 12) Foster care maintenance payment; see Section 7.500.31, A (12 CCR 2509-6);
    - 13) IV-E or state relative guardianship assistance program; see Section 7.311 et seq.
    - 14) IV-E or state adoption assistance.
  - b. This decision making process shall address the needs of the child(ren)/youth, family and kin and focus on how the goals of safety, permanency, and child(ren)/youth well-being can be most effectively achieved for the child(ren)/youth.

- c. The kinship care provider shall be advised of all support options available, and shall be advised of the grievance process available to certified and licensed providers.
  - d. Requests for approval for any exceptions for relatives to the foster care rules outlined in Section 7.708 (12 CCR 2509-8) shall be submitted by the county department of human or social services or child placement agency to the State Child Care Appeal Panel in accordance with procedures established by the Colorado Department of Human Services.
- 4. Services to kinship care providers shall:
  - a. Include training, support and services specific to the needs of kinship care providers.
  - b. Include supervision as described in the child(ren)/youth's Family Services Plan and in Section 7.500.313, A (12 CCR 2509-6).
- 5. Services to children/youth in all kinship care placements shall: Include the requirements of Section 7.301 (12 CCR 2509-4), assessment and case planning section.
- 6. Permanency Planning in Kinship Care
  - a. When a child(ren)/youth has been placed by the county department into temporary kinship care and reasonable efforts to reunite the child(ren)/youth with the parents are not successful, the county department shall consider permanent placement with the kinship care provider or other appropriate kin. The preferred permanent placement shall be adoption, legal guardianship, or permanent custody.
  - b. The grandparent, aunt, uncle, brother or sister must file a request with the court no later than twenty (20) days after the motion for termination has been filed, if the provider wishes to be considered as the guardian or to take legal custody of the child(ren)/youth. following the order of termination of the parent-child(ren)/youth legal relationship, the court shall give preference to this provider if it has been determined to be in the best interest of the child(ren)/youth and the attachment of the child(ren)/youth to the current caregiver has been considered.

### **7.304.3 OUT-OF-HOME PLACEMENT CRITERIA**

Not every child at risk needs out-of-home placement. These criteria are designed to provide a decision making model to assist in determining whether Core Service Program services and/or out-of-home placement are indicated. All three criteria must be met.

Criterion 1: The child may be at imminent risk of out-of-home placement, as defined in Section 26-5.3-102(1)(b), C.R.S., because one or more of the following conditions exist:

- A. Abandonment by or incarceration of parents/relatives/caretakers;
- B. Abuse/neglect - as defined in the Children's Code;
- C. Domestic violence - as defined in Section 18-6-800.3, C.R.S.;
- D. Conditions that exist to such a degree for either the child or caretaker so that the caretaker is unable to care for the child:

1. substance abuse; drug exposed infants
  2. mental illness
  3. disability
  4. physical illness
  5. homelessness
- E. Beyond control of parents;
- F. Danger to self, others, or community;
- G. Infant or young child of teen parent in placement;
- H. Delinquency - adjudicated delinquent meeting current out-of-home placement criteria written pursuant to Section 19-2-212, C.R.S.;
- I. Relinquishment or termination of parental rights;
- J. Child returning home from out-of-home placement or moving to less restrictive level-of-care.

Criterion 2: Before considering placement, an assessment is completed to determine the level of risk. If assessment of risk determines that the child is at imminent risk of out-of-home placement, then child/family strengths are determined, and the appropriate services and/or community supports (reasonable efforts) needed to address the existing Criterion #1 conditions are identified. When these services are not immediately available, or are absent, unsuccessful, or exhausted, placement in the Core Services Program and/or out-of-home may be considered.

Reasonable efforts include the intervention strategies and advocacy efforts used:

- A. To identify/locate appropriate parent/relative/caretakers if necessary to prevent out-of-home placement;
- B. To assess the parent/relative/caretaker's ability to protect children;
- C. To assist the parent/relative/caretaker and/or child in accessing and utilizing the identified services to address the presenting conditions.

Criterion 3: When placement is the best choice of available options/alternatives at this time to reduce risk to the child while continuing reasonable efforts to resolve the conditions which led to imminent risk, then, placement in the Core Services Program and/or out-of-home may occur.

**7.304.4 AGE AND RESIDENCY REQUIREMENTS AND PAYMENT RESPONSIBILITY FOR CHILDREN IN OUT-OF-HOME CARE [Rev. eff. 4/1/13]**

- A. A child is eligible for placement services on the basis of need from birth to age 18 when the child meets target group eligibility and all three of the placement criteria, regardless of whether the placement is voluntary or court ordered. A child from age 18 to age 21 continues to be eligible for placement services if the court had jurisdiction prior to the 18th birthday and the placement is court ordered.



- 
- B. All children residing or present in the state are eligible for placement services when the criteria in the Target Group sections 7.201, 7.202, and 7.203, the Out-of-Home Placement Criteria section 7.304.3, and the Authority for Placement section 7.304.51, are met.
- C. The child's county of residence shall be the county department which has financial and case decision-making responsibility for a child in out-of-home placement shall be the child's county of residence. The child's residence follows the parents' residence unless one or more of the following circumstances exist:
1. When the parent-child legal relationship has been terminated, the child's residence is the county in which the county department has legal custody of the child.
  2. When the court has transferred legal custody to a county department and the parent-child legal relationship has not been terminated, the child's residence is that county until the court transfers custody to some other entity, including changes of venue as described in the following section, 7.304.4, E.
  3. When a county department has legal custody and the court has also appointed a guardian, the child's residence is that of the county department holding legal custody.
  4. When a child is in parental custody, the child's residence is that of the parents, or of the last caretaker parent, unless there is a court order giving custody to one of the parents. In that case, the child's residence is that of the parent with legal custody.
  5. When a child is in the legal custody of an individual, the child's residence is that of the individual.
- D. Residence for school purposes may be determined on other factors, such as the type of facility in which the child is placed or the legal status of the child. See Educational Assessments in the Assessment and Case Planning section.
- E. The county department shall transfer financial and service planning, and financial responsibility as follows:
- If a parent whose residence is used to determine the county department's financial responsibility for a child in out-of-home placement moves to another Colorado county, the county department shall initiate procedures to transfer the financial responsibility to the new county, unless:
1. The court or the county department finds that the transfer of jurisdiction would be detrimental to the best interest of the child(ren); or,
  2. The legal custodian has a history of frequent moves, except when there is evidence of stability in the most recent move, such as a signed lease whose term is six or more months, or there is other firm evidence of the intent to remain in the new residence for six or more months; or,
  3. The case is within 3-6 months of resolution; or,
  4. The custodial parent is committed to a state mental institute or correctional facility; or,
  5. The custodial parent is residing temporarily in the receiving county to receive rehabilitation services, employment training, education, medical care, or shelter services; or,
  6. Adjudication has not taken place; or,
-

7. Change in venue hinders achieving the child's permanency goal; or,
  8. The case is an expedited permanency planning case, unless pursuant to Section 19-3-201(2), C.R.S., wherein it states that it shall be presumed that any transfer of proceedings without good cause shown that results in a delay in the judicial proceedings would be detrimental to the child's best interest. Such presumption may be rebutted in court by preponderance of evidence; or,
  9. When parental rights have been terminated for the child(ren); or,
  10. If the case involves a juvenile for whom a juvenile delinquency filing has been made, pursuant to Section 19-2-105(1)(b), C.R.S.
- F. Each county shall designate a Change of Venue coordinator.
- G. When a motion for a Change of Venue has been made by the sending county, the sending county shall mail the Change of Venue motion to all parties and attorneys of record in the case and to the county attorney in the receiving county.
- H. Within fifteen (15) calendar days after a court signs an order granting a Change of Venue and transferring jurisdiction, the sending county shall:
1. Provide written case information, if not located in the state automated system, to the designated Change of Venue coordinator in the receiving county which shall include, but need not be limited to:
    - a. Permanency goals;
    - b. Target dates related to the case;
    - c. Evaluations;
    - d. A current Family Services Plan;
    - e. Court reports;
    - f. Dates of placement moves;
    - g. Progress of the child(ren) in placement;
    - h. All Title IV-E eligibility determinations; and,
    - i. Recommendations for continuing progress in the case.
  2. Update all documentation in the case file and in the state automated system.
  3. Provide information, to the extent known, concerning the physical location of the child's parents, guardians, legal custodians, and relatives.
  4. Prepare the case for transfer by:
    - a. Scheduling a family engagement meeting involving all parties, county department caseworkers and supervisors, and community providers; or,

- b. Conducting a case staffing between county caseworkers and supervisors in the sending and receiving county departments; or,
  - c. Submitting a written case transfer summary.
- 5. Forward a complete copy of the case file from the sending county attorney's office to the receiving county attorney's office. Privileged attorney-client communications do not need to be included in the transferred case file.
- I. The child, family, and foster care provider shall be prepared for the transition by the sending county department.
- J. The sending county department is responsible for financial and service planning for the case and for payment of services through the calendar month in which the Change of Venue becomes effective. This date is to be confirmed by the sending county department in writing and there shall be no lapse in financial coverage during this process. If venue does not change, the sending county department retains financial responsibility.
- K. The receiving county department shall provide courtesy supervision and available services during this transition. If venue does not change, the sending county department retains financial responsibility.
- L. If a child is born while the mother is committed to a state mental institute or correctional facility, the county of residence prior to commitment shall be the county of fiscal responsibility.
- M. When a child is placed for adoption, the county department holding legal custody and guardianship shall have fiscal responsibility for the child until the adoption is finalized.
- N. If a child needs placement out of the home following finalization of adoption, the child's residence is that of the adoptive parents.
- O. Residence related to subsidized adoption is addressed in the Adoption Services section.

#### **7.304.5 SPECIFIC PROCEDURES FOR OUT-OF-HOME PLACEMENT**

##### **7.304.51 Authority for Placement**

The county department shall ensure that a child may enter any out-of-home placement only when:

- A. Target group and placement criteria are met; and,
- B. An emergency is determined to exist and s/he is removed from the home by a law enforcement officer, with or without a court order, or,
- C. A parent has signed a voluntary placement agreement under conditions established by the county department and according to the Children's Code; or,
- D. A juvenile court, or a court acting as a juvenile court (including a tribal court), has ordered the child to be placed out of the home and has transferred legal custody to the county department or a social services department of a federally recognized Indian tribe, for placement in a family care home or other child care facility.

##### **7.304.52 Family Search and Engagement [Rev. eff. 1/1/16]**

- A. Family search and engagement shall:

1. Be commenced for the noncustodial parent within three (3) working days. The county department must provide notification to the absent parent of the following:
    - a. The child or youth has been removed from the home; and,
    - b. The option to participate in the care, treatment, or placement of the child or youth.
  2. Be completed for all grandparent(s) and other adult relatives within thirty (30) calendar days. The county department of human or social services shall provide notification of the following information:
    - a. The child or youth has been removed from the home;
    - b. Options to participate in the care or placement of the child or youth;
    - c. Options that may be lost by failing to respond to the notice;
    - d. The requirements to become a foster parent, and services and supports available to the child and/or youth placed in the family foster care home; and,
    - e. A description of the Relative Guardianship Assistance Program.
- B. The county department shall assure that:
1. Parents are consulted regarding their suggestions for appropriate caretakers.
  2. Children and youth are consulted as appropriate regarding their suggested relative caretakers.
  3. When the court orders a delay in contacting specific relatives for good cause including, but not limited to, domestic or other family violence, then the county department shall discontinue the family search and engagement involving the relative until otherwise authorized by the court.
- C. Family search and engagement shall occur for all children including American Indian/Alaskan Native children and youth at least every six (6) months throughout the life of the case until the child or youth has achieved permanency, except as noted in Section 7.304.52, B, 3, or when the following conditions exist:
1. A placement is stable with a relative or kin a minimum of six (6) consecutive months; and,
  2. The relative or kin has committed to the legal permanence of the child or youth; and,
  3. There is agreement among the parties that the relative or kin is the appropriate permanent option, the juvenile or district court finds it is the appropriate permanency plan, and it is in the best interest of the child or youth that family search and engagement be discontinued.
  4. A non-relative foster care parent without a prior relationship to a youth twelve (12) years of age or older and his/her siblings residing in the same placement commits to the permanency of the youth and children. in addition, the juvenile or district court adopted a permanency plan of guardianship or Allocation Of Parental Responsibilities (APR) and the requirements in section 7.311.1, c, 2 (relative guardianship assistance program) are met.

- D. A family engagement meeting shall occur within thirty (30) calendar days when any of the following conditions exist:
1. The child or youth is in a family-like permanent setting without the provider expressing formal intent to provide legal permanence at the time that any of the following conditions exist:
    - a. The child or youth has been in out-of-home placement fifteen (15) of twenty-two (22) months; or,
    - b. The child or youth has had two (2) or more unplanned moves within a twelve (12) month period; or,
    - c. The child or youth is assigned a permanency goal of Other Planned Permanent Living Arrangement (OPPLA).
  2. The child or youth is in out-of-home placement in a non-family-like setting without an approved permanency plan and any of the conditions in Section 7.304.52, D, 1, a-c, exist.
- E. The county shall document all efforts in the Family Services Plan for the child or youth. Initial and ongoing family search and engagement results shall be reviewed and documented during ninety (90) day supervisory reviews.

**7.304.53 Court-Related Procedures [Rev. eff. 7/1/17]**

- A. County department staff shall work with the courts in order to best serve families, children, and adults. This includes, but is not limited to:
1. Providing competent and appropriate testimony. When the case involves the Indian Child Welfare Act, testimony shall be provided by a qualified expert witness (see Indian Child Welfare Act, "Definitions", Section 7.309.1, L).
  2. Identifying witnesses and evidence to be presented.
  3. Being in compliance with the Indian Child Welfare Act.
  4. Working with the legal representative of the county department and all other attorneys involved to serve the best interest of the child(ren) and family.
  5. Ensuring that the court is provided names and addresses of parents, foster parents, pre-adoptive parents, and kin who are providing out of home care for a child in order that the court can inform and allow these individuals an opportunity to be heard at all hearings and reviews involving the child.
- B. The county department shall document the following court related procedures in the case file:
1. The child and family's legal status including custody, guardianship, parental rights, and other judgments issued by the court(s) of jurisdiction. The term "allocation of parental responsibilities" when used by the court shall be interpreted to mean custody for child welfare purposes. The term "allocation of parental responsibilities" shall not be used as a permanency goal.
  2. Title IV-E related documents described in Section 7.001.41,B, of this staff manual.

3. The reasonable efforts which have been made to prevent removal of the child from her/his home, the reasonable efforts that have been or will be made to return the child to her/his home, and the reasonable efforts to finalize a permanent plan. The specific actions taken shall be documented and submitted to the court. When the case involves the Indian Child Welfare Act, "active efforts" rather than "reasonable efforts" must be provided (see Indian Child Welfare Act, "Definitions", Section 7.309.1, A).

When applicable, the county department shall document and submit to the court existing circumstances in which the court may determine that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family. These circumstances are:

- a. A court has determined that the parent has subjected the child to aggravated circumstances as specified in Section 19-3-604(1) and (2), C.R.S.
  - b. A court has determined that the parent has been convicted of:
    - 1) murder or voluntary manslaughter of another child of the parent; or,
    - 2) aiding or abetting, attempting, conspiring, or soliciting to commit murder; or, voluntary manslaughter of another child of the parent; or,
    - 3) felony assault that results in serious injury to the child or another child of the parent.
  - c. The parental rights of the parent with respect to a sibling have been terminated involuntarily unless the prior sibling termination resulted from a parent delivering a child to a firefighter or a hospital staff member pursuant to the provisions of Section 19 3 304.5, C.R.S.
4. That the court and the parents are notified of any change in placement before the change unless the child is in immediate danger.
  5. That a record is kept of all visits and of reasons planned visits did not occur.
  6. That the court, the parents, and the child are given written notice ten days before any determination which affects the parent's visitation rights, unless the child's health or well being is endangered by delaying action or would be endangered if prior notice was given. The caseworker shall keep a copy of this notification in the case record.
  7. The treatment plans, including the Family Services Plan and court ordered plan, that have been attempted to return the child to the family home.
  8. That the county has requested the court, in its periodic reviews, to make findings regarding the continued necessity and appropriateness of placement, the extent of compliance with the case plan, the extent of progress which has been made toward alleviating or mitigating the causes necessitating the placement, and projecting a likely date by which the child may be returned home or placed in an alternate permanent living arrangement.
- C. The county department shall file a dependency and neglect petition when there are protective service issues that either present imminent danger or indicate that the environment is injurious and the case requires court jurisdiction.

- D. When protective issues are not significant, county departments may refer children with intellectual, physical, or emotional disabilities to community or home-based services. If home-based or community services are not sufficient or successful, the county department may offer voluntary out-of-home placements for children who meet the criteria. If voluntary out-of-home placements are not offered, the county department shall have a written policy stating that voluntary placements are not provided.

The county department shall ensure that a placement contract is signed before a voluntary placement is made. The county department shall:

1. File a Petition for Review of Need for Placement within 90 calendar days of placement, if the placement is expected to exceed 90 calendar days.
  2. Ensure that the child's parents, guardian, and legal custodian are informed of the substance of the Petition for Review of Need for Placement.
  3. File a review report with the court every six months, thereafter, or more frequently, when ordered by the court, until the placement is ended. When an Administrative Review conducted by the Administrative Review Division substitutes for a court review, a summary containing the same information as would be submitted to the court shall be completed and filed in the case record in accordance with 7.002.1, B. The county department shall submit this written summary with the Administrative Review findings to the court.
  4. Ensure that a court decree giving the county placement and care responsibility is obtained within 180 calendar days of placement. The order must state that continued placement is in the best interests of the child and either that reasonable efforts have been made to reunite the child and family or that the plan is for the child not to return home.
  5. Ensure that the permanency planning hearing order for voluntary placements conforms with the requirements discussed under that section.
- E. When a child is returned to the home, the county shall request the court to return legal custody of the child to the parent or guardian, except in cases covered by the Interstate Compact for the Placement of Children.
- F. When a child is removed from the home, the county department must initiate a request for temporary custody hearing per Sections 19-3-312 and 19-3-401, C.R.S. The Family Services Plan shall be used as an Interim Treatment Plan in Court involved cases, to be available 30 calendar days after the child's removal from the home or 30 calendar days after filing of the petition, whichever is earlier.
- G. The county department shall notify the court of jurisdiction and other parties within 10 calendar days of receipt of a report that a child has run away from placement.
- H. Copies of Administrative Review findings shall be filed in the case record and a summary of those findings shall be included in court reports. For those cases in which an Administrative Review substitutes for court reviews, counties shall submit a copy of the actual review findings to the court with the county's court report.
- I. Recommendations to the court regarding out-of-home placement of a child who has been adjudicated a delinquent, shall contain specific facts and reasons supporting the recommendations and the cost of the recommended placement.

- J. When a child is temporarily absent from placement because he or she is in detention, psychiatric or medical hospitalization, or on a trial visit home, the placement is considered to be continuous for up to six months for Federal review purposes if the county retains legal custody or has placement and care responsibility through a voluntary placement agreement or Petition to Review the Need for Placement. If the child returns to out-of-home placement during this time, a new removal order is not needed. Within the trial home visit time period, when the agency determines it is in the best interest of the child to continue to live in the planned permanent home, the county agency shall request the court to consider relieving the department of custody in these cases.
- K. A trial home visit shall occur when it is necessary to assess the child's or youth's safety and well-being while residing in the planned permanent home. The time period of the trial home visit shall be determined by the agency and reviewed by the court as part of the reunification process prior to the permanent custodial return of the child or youth to the parents or planned caregivers.
  - 1. Trial home visits shall be documented in the State Department's automated data system.
  - 2. A trial home visit may exceed six months in duration if a court orders a longer trial home visit. If a trial home visit extends beyond six months and has not been authorized by the court or exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that removal must then be considered a new removal and Title IV-E eligibility must be newly established. Under these circumstances, the judicial determination regarding contrary to the welfare and reasonable efforts to prevent removal are required.
- L. Change in Venue procedures are outlined in Section 7.304.4, F, G, and H.
- M. When court-ordered, the county department of human or social services shall share a foster care home, kinship foster care home, and/or non-certified kinship care home provider's reports of fingerprint-based criminal history record information check generated from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) with the guardian ad litem, related to the placement of a child and/or youth in out-of-home care.

**7.304.54 Court Procedures Related to Permanency Planning [Rev. eff. 3/1/16]**

- A. The county department must develop a permanent plan for any child who is in out-of-home placement and is the subject of any court action, including Dependency and Neglect, Delinquency, or a Petition to Review the Need for Placement and a concurrent plan for cases filed under Section 19-3-102(2), C.R.S., regarding habitual abuse. The purpose of the plan is to establish treatment needs related to the stated goal for the child and to decide a method to provide a safe, stable, permanent environment for the child as quickly as possible.
- B. The county department shall submit this plan at the permanency court hearing. That hearing must be held before twelve (12) months have elapsed from the date of the child's original out-of-home placement, and shall be held as soon as possible following the dispositional hearing. Following the initial permanency hearing, subsequent permanency hearings must be held every twelve months thereafter while the child remains in out-of-home care. These hearings shall be combined with a periodic review when possible.
- C. The county department shall provide the court with documentation of the efforts made by the department to finalize the permanency plan for the child. The county department shall request the court to make a finding (if the evidence so warrants) that the department made reasonable efforts to finalize the permanency plan for the child.



- D. Paper reviews, ex parte hearings, agreed orders or other actions or hearings which are not open to the participation of the parents of the child (if appropriate age) and foster parents or pre-adoptive parents are not permanency hearings.
- E. When the court determines that reasonable efforts to return the child home are not required, the county shall request that the permanency hearing be held no later than thirty (30) calendar days after such court determination, unless the requirements of the permanency hearing are fulfilled at the hearing in which such a determination is made.
- F. The county department shall ensure and document that a request is made to the court for such a hearing in sufficient time to assure that the hearing is held within the twelve (12) month time frame. Permanency hearings shall be combined with a review hearing when possible.
- G. The county department shall include, in the permanency plan, recommendations to the court on either:
  - 1. Returning the child to his/her parent or guardian within the next six months; or,
  - 2. Permanent placement with a relative through adoption; or,
  - 3. Permanent placement with a relative through guardianship or permanent custody; or,
  - 4. Adoption (non-relative); or,
  - 5. Legal guardianship/permanent custody (no-relative); or,
  - 6. Return home through reinstatement of parental rights; or,
  - 7. Other planned permanent living arrangement through emancipation; or,
  - 8. Other planned permanent living arrangement through relative long term foster care; or,
  - 9. Other planned permanent living arrangement through non-relative long term foster care.
- H. For permanency goals 8 or 9, the county department shall ensure that the plan contains the name or other identifier, such as the system provider number, if the name of the provider must be kept confidential, of the specific placement and the date that placement shall end.
- I. For permanency goals 7, 8, and 9, the following requirements shall apply to the county department of human or social services for purposes of approving the case plan and the case review procedure for youth:
  - 1. At each permanency hearing held with respect to the youth, provide documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to address the following:
    - a. Return the youth home;
    - b. Secure a placement for the youth with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent; and,
    - c. Include efforts that utilize search technology (including social media) to find biological family members for the youth.

- 2. Provide compelling reasons why it continues not to be in the best interests of the youth to return home, be placed for adoption, with a legal guardian, or with a fit and willing relative.
- J. The county department shall request that the court order contain specific findings regarding the above goals.
- K. The county department shall assure that the permanency hearings determine whether an out-of-state placement continues to be appropriate and is in the best interest of the child.
- L. The county department shall assure that the permanency hearings determine whether the permanency plan includes independent living services for a child sixteen years of age or older.
- M. Permanency hearings are required to be held if a termination is under appeal, for children placed in a permanent foster home with a specific caregiver, and for children who are free for adoption and are placed in adoptive homes pending the finalization of the adoption.
- N. The county department shall file for termination of parental rights no later than the end of the 15th month of placement for any child who has been in foster care under the responsibility of the state for 15 of the last 22 months unless there is a compelling reason submitted to the court identifying why it is in the child's best interest to not terminate parental rights.
- O. The county department shall file for termination of parental rights no later than sixty (60) calendar days after the court determines that the child is an abandoned infant, unless there is a compelling reason submitted to the court identifying why it is in the child's best interest to not terminate parental rights.
- P. The county department shall file for termination of parental rights no later than sixty (60) calendar days after a judicial determination is made that reasonable efforts to reunify the child with the parent are not required, unless there is a compelling reason submitted to the court identifying why it is in the child's best interest to not terminate parental rights.
- Q. The county department shall discuss the purpose and responsibilities of relative guardianship with the parents or legal custodian of a youth or child and the importance of achieving permanency.

**7.304.55 Court Procedures Related to Termination of the Parent-Child Legal Relationship**  
**[Rev. eff. 2/1/10]**

- A. The county department shall consider termination of the parent-child legal relationship as a part of the permanency planning process. Termination is a court action that permanently divests the child and parent of all legal rights and responsibilities with respect to each other. It does not modify the child's status as an heir at law, which occurs when there is a final decree of adoption. Termination of the parent-child legal relationship with both parents frees a child for adoption.
- B. When the county department files a petition for dependency and neglect, the petition shall include a statement related to termination of the parent-child legal relationship as required in the Colorado Children's Code, Section 19-3-502(3)(a), C.R.S..
- C. The county department shall give primary consideration to the physical, mental, and emotional conditions and needs of the child when considering filing a motion for termination, and when making any reports and recommendations to the court.

- D. The county department shall ensure that the child's psychological and medical conditions have been evaluated and that the results of those evaluations indicate that termination is in the best interest of the child.
- E. The county department shall consider termination of the parent-child legal relationship based on a finding of parental unfitness as outlined in the Colorado Children's Code, Sections 19-3-604(1)(a) through 19-3-604(1)(c), C.R.S. and 19-5-105 (3.1), C.R.S.
- F. The county department shall gather information to present the court with clear and convincing evidence regarding the criteria for termination and evidence beyond a reasonable doubt in the case of children eligible under the Indian Child Welfare Act.
- G. In planning for termination of the parent-child legal relationship, the county department shall:
  - 1. Work with the county's attorney in preparation of the court case.
  - 2. Provide a treatment plan for the court's approval.
  - 3. Cooperate with any guardian ad litem for the case.
  - 4. Provide prepared staff to testify at the termination hearing, identify other witnesses, and assist in preparation of witnesses.
  - 5. Keep parents, children, and appropriate interested parties informed regarding hearings and the status of the case.
  - 6. File a motion for termination no less than 30 calendar days before the hearing.
- H. Prior to and following termination of the parent-child legal relationship by the court, the county department shall:
  - 1. Consider legal custody or adoption by relatives when in the child's best interests.
  - 2. Determine resources available for an adoptive placement or alternative permanent plan which best meets the needs of the child.
  - 3. When filing a motion to terminate parental rights, county staff shall begin efforts to recruit, identify, process and approve a qualified adoptive family for the child and document such efforts in the Family Services Plan.
  - 4. Prepare a report for the court to be presented at a hearing scheduled within 90 calendar days following the date of termination. The report shall indicate what disposition of the child's case has occurred.
- I. Permanency hearings are required to be held if a termination is under appeal or if a child is in a pre-adoptive placement following termination.
- J. When the county department has legal custody/guardianship following termination of the parent-child legal relationship, the county department shall not close the child's case until:
  - 1. The child is adopted; or,
  - 2. The child reaches 18 years of age and the court does not continue its jurisdiction; or,
  - 3. The child is emancipated before 18 years of age; or,

4. The court transfers legal custody to another individual or agency; or,
5. The court otherwise terminates the county department's legal responsibility.

#### **7.304.6 PLACEMENT ACTIVITIES**

##### **7.304.61 Pre-Placement Activities [Rev. eff. 1/1/16]**

- A. The child shall have a medical examination before placement or a screening as soon as is reasonably possible after placement. The county department shall assure that the screening is consistent with the Early Periodic Screening Diagnosis and Treatment initial screening described in Section 8.286.01 of the Department of Health Care Policy and Financing's Medical Assistance manual (10 CCR 2505-10). If a medical, dental, or psychological evaluation is necessary and cannot be covered under Medicaid, third-party insurance, or other sources, the county department may purchase it under program services. See General Information and Policies section (7.000) and Resources, Reimbursement, and Reporting Section (7.400) of this manual.
- B. Prior to the placement of a child in a child placement agency or county foster care home, the placing agency may review the written family assessment, home study, and background checks of the foster parent(s) for use in determining if the home is appropriate for the needs of the child.
- C. When the child is part of a sibling group and the sibling group is being placed out of the home, if the county department locates an appropriate capable, willing, and available joint placement for all of the children in the sibling group, it shall be presumed that placement of the entire sibling group in the joint placement is in the best interests of the children. Such presumption may be rebutted by the county by a preponderance of evidence that placement of the entire sibling group in the joint placement is not in the best interests of a child or of the children. If the child is a part of a sibling group, the county shall make thorough efforts to locate a joint placement for all of the children in the sibling group unless it is not in the best interests of the children to be placed as a group and these efforts do not unreasonably delay permanency for any child. Efforts to place siblings as a group shall be documented in the child's case record.
- D. The county department shall share all available information about the child, including relevant social, medical and educational history, behavior problems, court involvement, parental visitation plans, and other specific characteristics of the child, with the provider before placement. It shall share additional information when obtained. The county department shall inform foster parents of court hearings involving children in care.
- E. A child's foster care placement shall not be delayed in order to recruit a same race home when a foster family is available who is of other ethnic or racial identity than that of the child.
- F. The county department shall document all pre-placement activities in the case file.
- G. The county department shall execute the Provider Contract and Agreement with county department certified foster homes and county department sponsored group homes, and the agreement to purchase Child Placement Agency or Residential Child Care Facility services with Child Placement Agencies and Residential Child Care Facilities before placement. The Agreement to Purchase form is child specific and shall be completed for each child placed through a Child Placement Agency or with a Residential Child Care Facility.

1. Placement contracts shall specify the responsibilities of the provider and the county department in the services to be delivered to the child and family in conjunction with the Family Services Plan. The placement contracts shall also require twenty-four (24) hour out-of-home care facilities to have staff present and trained in how to make decisions using the reasonable and prudent parent standard when approving extracurricular, enrichment, cultural, and social activities; and,
2. County departments shall provide twenty-four (24) hour out-of-home care providers with a copy of the policy that identifies activities that providers trained in the reasonable and prudent parent standard may approve, and activities that require county department approval.

**7.304.62 Placement Activities [Rev. eff. 1/1/16]**

The county department shall:

- A. Give the provider a written record of the child's admission to the home at the time of placement.
- B. Give the provider a written procedure or authorization for obtaining medical care for the child and assure that the provider receives the child's state identification number and Medicaid card for Medicaid eligible children in a timely manner.
- C. Give the provider a copy of the Family Services Plan for the child at the time of placement or when it is completed following placement.
- D. Document the above placement activities in the case file.
- E. Add the placement in the Department's automated reporting system prior to the next payroll.
- F. Within four weeks of the initial placement, give the provider a complete medical history for the child. The medical history shall contain, to the maximum degree possible, the information listed in the Department of Human Services Health Passport.
- G. Provide the child with a full medical examination scheduled within fourteen (14) calendar days after placement and a full dental examination scheduled within eight (8) weeks after placement. The schedule of the appointments shall be documented in the case record. The county department shall maintain the medical and dental information in a record which is kept with the child during placement and upon return home, emancipation, or adoption. The county department shall document that ongoing medical and dental care is provided in a timely manner as defined by the department and by the health care provider. If the child received the required full medical examination at the time of the placement, then the regular schedule of appointments should be maintained in subsequent placements.
- H. Document the exceptional circumstances which require an emergency or temporary placement to last longer than sixty (60) calendar days.
- I. Except in emergency situations, make subsequent placements according to court order and shall notify all parties to the extent possible.
- J. Not move a child from one short-term emergency placement to another unless all reasonable efforts to return the child to the child's home or to place the child in a more permanent setting have been exhausted and are documented in the Family Services Plan.

- K. Not move a child more than twice unless such move results in a permanent placement or is determined to be in the best interests of the child and the reasons for the additional move are documented in the child's Family Services Plan.
- L. Notify the guardian ad litem, parent(s) or legal guardian within one (1) business day upon a child's placement into a foster care home. The guardian ad litem's contact information shall be provided to the foster parents.
- M. Provide notice of, and a right to be heard at, any Administrative Review to the child (if age appropriate), foster parents, pre-adoptive parents, or relatives providing care to a child and, upon written request, a written notice of the court hearing, which identifies the following:
  - 1. The child's current court case number;
  - 2. The date and time of the next court hearing; and,
  - 3. The name of the magistrate or judge and the court division to which the case was assigned.
- N. Not release personally identifying information. Upon receipt of written notice by a foster parent, employees of State and county departments, or others with the need to know, shall be prohibited from releasing personally identifiable information about a foster parent, other than the first name, to any adult member of the foster child's family, unless the foster parent subsequently provides written consent for the release of information.
- O. Refer to Section 7.406.1, F, for the applicable criteria when a child will be absent from the designated out-of-home placement and the county elects to reimburse the provider using the seven (7) day or thirty (30) day policy.
- P. Allow out-of-home care providers, who are trained in a reasonable and prudent parent standard, to authorize children and youth to participate in community-based activities without the need for a fingerprint-based criminal record background check for the adult(s) involved in the activities. A decision to allow participation shall be based on trained providers using a reasonable and prudent parent standard, as defined in Section 7.701.200, A (12 CCR 2509-1), and the procedures defined in Section 7.701.200 (12 CCR 2509-8).
- Q. Respond to issues related to human trafficking as outlined in Section 7.303.4.
- R. If a disqualifying factor (refer to Section 7.000.2 (12 CCR 2509-1)) is identified following the placement of a child and/or youth in a non-certified kinship care home, the county department of human or social services shall evaluate the appropriateness of continuing the placement. A plan shall be developed to address the concerns as soon as possible, and the concerns shall be remedied no later than two weeks after the date of placement. The following shall be documented in the state automated case management system in the contact log in the resource section or in the record:
  - 1. The circumstances of the placement;
  - 2. The vulnerability of the child and/or youth, including age and development;
  - 3. Safety issues impacting the child and/or youth;
  - 4. Supports needed by the non-certified kinship caregiver(s);

5. Identify alternative solutions to removal of the child and/or youth from the placement and document the solution in the family service plan including, but not limited to, the family's current status in the following domains:
  - a. Risk and safety;
  - b. Level of functioning;
  - c. Strengths;
  - d. Specific concerns to be addressed;
  - e. Services and supports needed; and,
  - f. Changes that must occur to mitigate the concerns.
6. When the disqualifying factor cannot be mitigated, the alternative solution and plan does not resolve the concerns about appropriateness of the placement, or timeframes are not met, the county department shall remove the child and/or youth from the placement.

**7.304.63 Out of State Placement Activities**

- A. All out-of-state placements for kinship, foster, group, or residential care must comply with the Interstate Compact for the Placement of Children, Section 7.307.
- B. County departments must follow federal guidelines and shall not place children out of state who are in care under a placement contract (voluntary placements). Such placements can only be made by a parent or guardian.

**7.304.64 Visitation and Supervision**

- A. Contact between the county department and the child shall be documented in the child's case record.
- B. In all cases where counties have primary responsibility for a child in out-of-home placement, an appropriate visitation plan shall be established and documented in the child's case record. The visitation plan shall specify the frequency and type of contact by the parents (unless parental visitation is determined to be detrimental to the child) and others with the child, as appropriate. At a minimum, the visitation plan should provide methods to meet the following interests and needs of the child:
  1. The growth and development of the child;
  2. The child's adjustment to the placement;
  3. The ability of the provider to meet the child's needs;
  4. The appropriateness of parent and child visitation, including assessment of risk;
  5. The child's contact with parents, siblings, and other family members;
  6. The child's permanency plan.

- C. When a child in foster care and a sibling (defined in Section 7.000.5, Y) mutually request a visit or regular visits, or the guardian ad litem requests visits on behalf of a child, the county department shall perform and document the following activities in the visitation plan and contact notes:
1. That visits are scheduled in a reasonable amount of time and with sufficient frequency to promote continuity of the relationships.
  2. That the county department has determined that it is not in the best interests of one or both of the children.
  3. That there has been consultation with the District Attorney to determine whether a criminal action is pending in any jurisdiction where either sibling is a victim or witness, prior to arranging a visit.
  4. That a visit is not required or permitted because it would violate a known existing protection order pending in any state.
  5. A child in foster care shall be informed of the right to sibling visits.
- D. Visitation between the child and his/her family shall increase in frequency and duration as the goal of reuniting the family is approached. The caseworker shall document this increase in visitation in the child's case record.
- E. The county department will notify parents of any determination which affects their visitation rights. The caseworker shall keep a copy of this notification in the case record.
- F. In cases where the goal is not to reunite the family, the caseworker shall discuss the issue of separation and help define the child's future relationship with the family. The caseworker shall document this discussion and planning in the case record.

**7.304.65 Administrative Review [Rev. eff 7/1/10]**

**Definition:**

Administrative Review means a review conducted by the Colorado Department of Human Services, Administrative Review Division, that is open to the participation of the parents of the child, the child (if age appropriate, as determined by the caseworker), and the out-of-home care provider, pre-adoptive parents, or relatives/kin who are providing out-of-home care for the child; and conducted by an Administrative Reviewer, who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. If there is no objection by any party to the action, the court may order that an Administrative Review substitute for a six (6) month periodic review. All attorneys of record must be invited to court ordered Administrative Reviews.

- A. The county department shall participate in the statewide Administrative Review system for all children in foster care who meet the criteria for inclusion in the review system.
- B. The county department shall provide all required case records, documentation and information to the Administrative Reviewer no later than 8:00 a.m. the day of the scheduled review to allow the reviewer sufficient time to read the case file in its entirety prior to each scheduled review. If the hard copy case record is not available to the reviewer by 8:00 a.m. the day of the scheduled review, case information shall be obtained through the Department's statewide automated system.
- C. The county department shall provide office space for case record review and face-to-face reviews, access to the Department's statewide automated system, and teleconference capability.



- D. The county department shall coordinate, with the Administrative Reviewer, timely scheduling of all initial and subsequent Administrative Reviews.
- E. The county department shall invite parents, the child (if age appropriate as determined by the caseworker), out-of-home care providers, pre-adoptive parents, relatives/kin who are providing out-of-home care for the child, and the guardian ad litem to the Administrative Review in order that these individuals will have a right to be heard. All invitees shall be encouraged to attend.
- F. If an Administrative Review has been ordered by the court and no objection has been made to the substitution of the Administrative Review for the six (6) month periodic court review, the county department shall also invite to the review all attorneys of record in the case. When an Administrative Review substitutes for a six month periodic court review, the county department shall complete a case summary containing the same information that would be submitted in a court report as required in Section 7.002.1, and the county shall submit this written summary with the Administrative Review findings to the court.
- G. The county department shall send letters of invitation to all review participants at least two weeks prior to scheduled reviews, and ensure that invited parties are properly documented in the Department's statewide automated system prior to the time of the review. The parent or Indian custodian and the Indian child's tribe shall be sent notice at least two weeks prior to the scheduled review by registered mail with return receipt requested. Notification shall include date, time, location, and purpose of the review. If the case involves an Indian child, the requirements at 25 U.S.C. Section 1912(a) apply; no later amendments or editions are incorporated. Copies are available for public inspection by contacting the ARD Director during regular business hours at Colorado Department of Human Services, Administrative Review Division, 4045 S. Lowell Blvd., Denver, Colorado 80236; or at a state publications depository library.
- H. The county department shall encourage all invitees to attend Administrative Reviews (see Section 7.304.661, A, regarding, provider attendance). If an individual is unable to attend, participation by conference call shall be offered.
- I. Administrative Reviews shall be held at the county department having custody of the child, irrespective of the location of the child's placement.
- J. Administrative Review Findings
  - 1. Copies of Administrative Review findings shall be maintained in the Department's statewide automated system and a summary of those findings shall be included in court reports. For those cases in which an Administrative Review substitutes for a six month periodic court review, counties shall submit a copy of the actual review findings to the court with the county's court report.
  - 2. For all narrative findings that contain "Issues for County Administration", the county is required to respond to the Administrative Review Division within the time frame specified in the narrative depending on the issue identified.
    - a. A county response shall be sent to the Administrative Review Division.
    - b. If the county response is considered sufficient and timely, no further action is taken and the county shall be notified in writing within five (5) working days.
    - c. If the county's response is not timely or sufficient, notification will be given to the county and appropriate division(s) representative for further follow up/action.

- d. An internal meeting will be held with the appropriate division(s) and their representatives within a maximum of twenty (20) working days to determine next steps and time frames for resolution.
- e. If the issues are unresolved, a corrective action process may be pursued.

**K. Confidentiality**

- 1. The federal confidentiality requirements at Section 471(a)(8) of the Social Security Act provide safeguards which restrict the use of, or disclosure of, information concerning individuals served by the child welfare agency, and these same rules apply to the Administrative Review process.
- 2. Audio and/or video recording of Administrative Reviews shall not occur without releases of confidentiality forms signed by all parties to the case prior to recording.

**7.304.66 Monitoring of Purchased Services for Out-of-Home Placement and Core Services**

**7.304.661 Out-of-Home Placement [Rev. eff/ 4/1/12]**

- A. The county department shall contract with providers for specific services using the state prescribed contracts. The contract shall specify the responsibilities of the provider and the county for services to be provided to the child and family, in conjunction with the Family Services Plan. The county department shall monitor the services purchased from Residential Child Care Facilities, Child Placement Agencies, Core Service Program and all out-of-home providers at least monthly, by face-to-face or telephone contact with the provider. The county department shall contract with providers to submit written quarterly progress reports to the county department and to attend Administrative Reviews in person or by conference call. The county department shall participate in staffings or planning meetings on a regular basis as defined in the case plan. The county shall contract with providers to comply with the county designated visitation plan as specified in the placement agreement.
- B. The county department shall reassess the case plan with the provider at least every six months and document progress toward goals, including discharge planning. It shall make necessary modifications to the plan based on mutual treatment planning with the provider.
- C. If there are problems or complaints concerning the care or treatment of a child in a purchased Residential Child Care Facility or Child Placement Agency placement, or Core Services Program services, or a report of violations of child care standards, the county department shall report the circumstances to the licensing or certifying authority within 24 hours. If the nature of the complaint involves an allegation of abuse or neglect, a report to the local investigating authority shall be made immediately.

**7.304.662 Core Services**

- A. Counties with a state-approved Core Service Program plan may directly provide or purchase Core Service Programs.
- B. If a Core Service Program is purchased, state rule requirements in this manual. Section 7.003, "Purchase of Services", shall be followed.
- C. When the county purchases Core Services, the county has the responsibility to select contractors who have the skills and resources to deliver the services for which they are contracting. Counties shall monitor all purchase of services contracts to insure that contracted services are delivered.

- D. Core Services may be purchased and provided for a child placed out-of-state with written state department approval.
- E. County departments shall adhere to state guidelines regarding coding and state reimbursement requirements for provided or purchased services.
- F. County Core Service Programs may only be used for a child in out-of-home placement when services are not available through the contract with the out-of-home provider or the county negotiates a lower rate with the provider.
- G. Core Service Programs may only be used for clients when the client's private insurance and/or other funding sources are exhausted, insufficient, or inappropriate.
- H. Core Service Programs that have duplicative components cannot be provided/purchase at the same time.

**7.304.67 Post-Placement Activities**

- A. The county department shall update the status of the child in the Department's automated reporting system within seven calendar days following termination of the placement.
- B. The county department shall complete a written summary within 30 calendar days after termination of the placement. This summary may be included as part of a court report, six month summary, or case closing summary. The summary shall document that the caseworker has:
  - 1. Discussed with the child and family the goals that have been achieved and not achieved.
  - 2. Established a clear plan for follow-up services if needed.
  - 3. Involved the foster care provider in the evaluation of services, progress, and the child's further needs.
- C. The county department shall follow all required eligibility and documentation procedures to confirm the placement change.

**7.304.7 RIGHTS AND RESPONSIBILITIES OF FOSTER PARENTS AND PROVIDERS**

**7.304.71 Rights of Foster Parents**

- A. The foster parents have a right to a notice of legal status on children in their care and a right to declare their intent to adopt or not to adopt.
- B. For a relinquished child, the foster parents may be given custody of a child who has been in their home for more than a year.
- C. The court may award guardianship of a child to a foster parent.

**7.304.72 Rights of Kinship Care Providers**

- A. Children may be placed with a relative or other suitable person under the legal status of protective supervision.
- B. The court may, if in the best interests of the child, give preference to a grandparent who is appropriate, capable, willing, and available to care for the child in decisions relating to legal custody and determination where and with whom a child shall live.

- C. Grandparents have certain visitation rights under the law.
- D. Evidence of grandparents' past conduct of any child abuse or neglect shall be considered when grandparents seek the placement or custody of their grandchildren.
- E. When the parent-child relationship is terminated, grandparents, aunts, uncles, brothers, or sisters of a child may request guardianship and legal custody, and the court shall give preference to them if it determines that the placement is in the best interests of the child.

**7.304.73 Rights of Denied Foster Parent Applicant [Rev. eff. 4/1/12]**

Refer to Section 7.500.351, F, for this information.

**7.304.74 Responsibilities of Foster Parents [Rev. eff. 1/1/16]**

As the provider, the foster parents shall:

- A. Participate with the county department as an active team member in case planning and service delivery, including attendance at staffings and meetings, as specified in each child's Family Services Plan. The provider's signature on the Family Services Plan is required for each child placed.
- B. Work actively with families of origin as specified in each child's Family Services Plan.
- C. Keep weekly records of each child's behavior and progress and submit those records monthly to the county department. Copies shall be maintained in the child's file kept by the provider.
- D. Provide written notice to employees of the State Department and county departments or other individuals with a need to know, if the foster parent does not want personally identifiable information provided to adult members of the foster child's family. Written notice may be subsequently provided to the parties aforementioned for release of personally identifiable information to the foster child's family; such information shall include the consent to release information, the foster parent's signature, and the date.

**7.305 EMANCIPATION SERVICES**

**7.305.1 INDEPENDENT LIVING [Rev. eff. 11/1/15]**

Independent Living includes programs and services to prepare youth in out-of-home care for the transition from a structured living environment to living on their own. Services for all children and youth in out-of-home care should include efforts to build life skills and self-sufficiency competencies; however, such services are mandatory for youth fourteen (14) years of age and older.

**7.305.2 SPECIFIC PROCEDURES [Rev. eff. 11/1/15]**

- A. The county department shall assess all youth in foster care who have reached the age of fourteen (14) for independent living services and complete the independent living section of the Family Services Plan (FSP). This assessment and planning for independent living is required regardless of the specified permanency goal of the case plan.
- B. The county department's assessment shall include documentation of:
  - 1. The youth's capacity for self-sufficiency and self-support by reviewing daily living skills.

2. An evaluation of individual, family, community, and financial support resources available to promote emancipation or semi-independent living.
- C. Following assessment, the Independent Living Plan (ILP) shall be developed in consultation with the youth, caseworker, care provider(s), and, at the option of the youth, up to two (2) other significant persons chosen by the youth who are not the foster parent or caseworker for the youth and documented in the FSP in the state automated system. If the county department of human or social services has good cause to believe an individual selected by the youth will not act in his or her best interest, the planning team may designate another advocate for the youth.
1. The case plan and court report following a staffing or meeting shall describe the services to help the youth transition to successful adulthood including, but not limited to, participation in on-going opportunities to engage in age and developmentally appropriate activities, and, if the youth is pregnant and/or a parent, the supports provided to the youth.
  2. The case plan shall document the rights of the youth to education, health, visitation, court participation, the right to stay safe and avoid exploitation, and the right to receive a credit report annually. A signed acknowledgement that the youth was provided a copy of these rights and that they were explained in an age or developmentally appropriate way shall be included in the case plan.
- D. Criteria and Use of Independent Living Arrangements
- The county department shall assess all youth in foster care who have reached the age of fourteen (14) for Independent Living Services and complete the independent living section of the Family Services Plan (FSP). This assessment and planning for independent living is required regardless of the specified permanency goal of the case plan.
- E. Free Annual Credit Record Report for Youth Fourteen (14) Years of Age and Older in Foster Care
- The following steps shall be taken:
1. The county department shall obtain free annual credit report information from the three credit reporting agencies designated by the Department for youth who are in foster care and are at least fourteen (14) years of age, and provide the information to the youth and Guardian ad Litem (GAL);
  2. If the youth objects to obtaining the credit report, the county department shall inform the court and request that the court issue an order authorizing the county to obtain the credit report.
  3. The county department shall maintain a copy of each credit report in the case record; and,
  4. Should the annual report show evidence of any inaccuracies, the county department shall inform the court of the inaccuracies, refer the youth to a Colorado Department of Human Services approved governmental or non-profit entity to resolve the inaccuracies, and inform the GAL of the referral.

**F. Emancipation Transition Plan**

The youth, county department caseworker, provider(s), and other representatives of the youth as appropriate, shall jointly develop a detailed, formal emancipation transition plan a minimum of ninety (90) business days prior to the projected emancipation date of the youth. The plan shall include, but not be limited to, the following:

1. Assurance that the plan meets the specific self-sufficiency/cost of living standard in the county or state where the youth plans to reside.
2. An individualized written assessment used to develop the plan that is as detailed as the youth elects, and is signed and dated by the youth and the parties that developed the plan.
3. Personalization at the direction of the youth to meet the individual emancipation needs in order to help prevent homelessness.
4. Copies of verifiable vital documents required in Section 7.305.5.
5. Specific options for:
  - a. Housing,
  - b. Health insurance and health care decision-making information,
  - c. Education,
  - d. Local opportunities for safe mentors,
  - e. Continuing after-care support services, and
  - f. Work force supports and employment services.
6. The plan shall be documented in the State Department's automated system in the Family Services Plan, and a copy given to the youth free of charge.

**7.305.3 NATIONAL YOUTH IN TRANSITION DATABASE (NYTD) [Rev. eff. 11/1/15]**

The National Youth in Transition Database (NYTD) is a federal reporting requirement. Information is collected in NYTD about youth in foster care, including sex, race, ethnicity, date of birth, and foster care status. Information is also collected about the outcomes of youth who are in or have exited foster care.

**7.305.31 Served Population [Eff. 10/1/10]**

The served population consists of youth and children in out-of-home care, regardless of age, receiving independent living services that are paid for or provided by the state or county.

The county department shall enter the following information into various fields of the State's automated data system:

**A. Basic Demographic Information**

1. Date of birth;
2. Sex;

3. Race;
  4. Hispanic/Latino ethnicity.
- B. Youth/Child Characteristics
1. Adjudicated delinquent;
  2. Out-of-home status;
  3. Federally-recognized tribe;
  4. Educational level;
  5. Special education.
- C. Independent Living Services
1. Independent living needs assessment;
  2. Academic support;
  3. Post-secondary educational support;
  4. Career preparation;
  5. Employment programs or vocational training;
  6. Budget and financial management;
  7. Housing education and home management training;
  8. Health education and risk prevention;
  9. Family support and healthy marriage education;
  10. Mentoring;
  11. Supervised independent living;
  12. "Room and board" financial assistance;
  13. Educational financial assistance; and,
  14. Other financial assistance.

**7.305.32 Baseline Population [Eff. 10/1/10]**

The "Baseline Population" consists of any youth who is in out-of-home placement, for even one day, and that has reached age seventeen (17) as of October 1, 2010 through September 30, 2011, and every third year thereafter.

The county department shall assure that surveys for the "Baseline Population" are completed within forty-five (45) days of the youth turning age seventeen (17).

**7.305.33 Follow-Up Population [Rev. eff. 11/1/15]**

The "Follow-Up Population" consists of young people who were in the baseline population at age seventeen (17) who reach age nineteen (19) or age twenty-one (21) during the six-month survey period and who appear in the survey population or sample indicated in the Trails NYTD screen.

For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth Corrections shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned.

For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth Corrections shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.

**7.305.34 [Eff. 10/1/10]**

When a youth in either the Baseline or Follow-Up population is unable to participate, the county shall document the reason in the State's automated system. The reasons that shall be given are:

- A. Youth declined participation;
- B. Parent declined on behalf of the youth;
- C. Youth is incapacitated;
- D. Youth is incarcerated;
- E. Runaway/missing youth;
- F. Unable to locate the youth;
- G. Youth has died.

**7.305.4 CHAFEE FOSTER CARE INDEPENDENCE PROGRAM (CFCIP) – TITLE IV-E INDEPENDENT LIVING GRANT INITIATIVE [Rev. eff. 11/1/15]**

The Chafee Foster Care Independence Program (CFCIP) is a federally funded statewide independent living program that is county administered.

The purpose of the Chafee Foster Care Independence Program is to provide age or developmentally appropriate independent living resources to youth in out-of-home care who are at risk of aging out of foster care. These services shall supplement existing independent living resources and programs in county departments, residential child care facilities and child placement agencies, and by federal statute, shall not replace or duplicate existing services. Chafee Foster Care Independence Program funds shall not be used for room and board for a youth under eighteen (18) years of age. The eligible population includes:

- A. Youth currently in out-of-home care, fourteen (14) up to twenty-one (21) years of age, and in out-of-home care for a minimum of six (6) months if under seventeen (17) years of age; consecutive months are not required;
- B. Youth eighteen (18) to twenty-one (21) years of age, who were in out-of-home care on or after their eighteenth (18th) birthday; and,



- C. Youth sixteen (16) to twenty-one (21) years of age who meet requirements for relative guardianship assistance, and youth sixteen (16) to twenty-one (21) years of age who meet requirements for adoption assistance or who met such requirements on or after their sixteenth (16th) birthday.

**7.305.41 County Responsibilities [Rev. eff. 11/1/15]**

- A. The designated host county department shall submit a county plan for State approval.
- B. The county department shall comply in format, content, and time lines with the instructions for Chafee Foster Care Independence Program plans as published by the State Department in an agency letter which will also contain required instructions for program and financial reporting.
- C. The county department shall administer the State approved plan in accordance with provisions of the plan.
- D. Funds shall be used exclusively for the purposes specified in the plan.
- E. County departments must submit amendments to approved plans when the county is proposing to add or delete a service to the plan. The county department shall submit amendments of the Chafee Foster Care Independence Program plan for approval to the State Department no less than thirty (30) business days before the amendment is to be effective.
- F. The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis:
  - 1. Risk or history of human trafficking;
  - 2. Risk or history of homelessness;
  - 3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth Corrections after attaining age eighteen (18), or is expected to do so;
  - 4. Previous participation in Chafee services or transfer of services from another county or state;
  - 5. Enrollment and progress in educational programs, internships or apprenticeships;
  - 6. Enrollment and progress in workforce innovation and opportunity act programs or workforce development activities; and,
  - 7. Connection to permanent, supportive adults and personal support systems.

**7.305.42 Eligibility [Rev. eff. 11/1/15]**

To be eligible for Chafee Foster Care Independence Program (CFCIP) services, the youth must:

- A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth Corrections, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.
- B. Be at risk of aging out of foster care which includes youth:

1. Currently in out-of-home care, fourteen (14) up to twenty-one (21) years of age, and in out-of-home placement for a minimum of six (6) months if under age seventeen (17). Consecutive months are not required;
  2. Sixteen (16) to twenty-one (21) years of age, who meet requirements for Relative Guardianship Assistance and entered Relative Guardianship on or after age sixteen (16);
  3. Sixteen (16) to twenty-one (21) years of age, who meet requirements for Adoption Assistance and entered Adoption Assistance on or after age sixteen (16);
  4. Eighteen (18) to twenty-one (21) years of age, who were in out-of-home care on or after their eighteenth (18th) birthday.
- C. Have a current Family Services Plan in the State Department's automated system. For youth who emancipated, were adopted or entered Relative Guardianship in another state, have documented verification of eligibility from the state where the youth's case was closed. For youth who entered into a Relative Guardianship or Adoption Assistance agreement at age sixteen (16) or older, the following may be used in lieu of a Family Services Plan:
1. The Relative Guardianship or Adoption Assistance agreement; or,
  2. An Independent Living Plan developed on or prior to the eighteenth (18th) birthday.
- D. Participate on a voluntary basis. The youth may decide to refuse services, but shall be entitled to reconsider his or her choice and receive services at a later date.
- E. Follow the plan developed with the youth and the county department regarding participation in the Chafee Foster Care Independence Program.

**7.305.43 Educational and Training Voucher Program [Eff. 11/1/15]**

The Educational and Training Voucher Program provides federally funded vouchers for postsecondary training and education to youth eligible for Chafee services in Section 7.305.42.

**7.305.5 Vital Life Documents Prior to Emancipation [Rev. eff. 11/1/15]**

- A. All youth in foster care who have reached the age of eighteen (18), and who have been in foster care at least six (6) months, shall be provided with the following documents a minimum of ninety (90) business days prior to the projected emancipation date of the youth, unless there is no record of the youth's birth or the identity of the youth cannot be established, in which case the basis for this shall be documented in the State automated system:
1. A certified birth certificate or, when applicable, an alien registration card (green card);
  2. Tribal affiliation information for American Indian/Alaskan Native youth (see section 7.309.21, A and B);
  3. A Social Security card;
  4. A state identification card or a state driver's license;
  5. A Health Passport and other pertinent health-related records, to include health care decision-making information, and health insurance information; and,
  6. Educational records (see Section 7.301.242).

- B. For all male youth with a permanency goal of "Other Planned Permanent Living Arrangement", the county shall facilitate registration for the Selective Service System.

### **7.306 ADOPTION SERVICES**

The county department shall ensure that adoption services are provided as a service on the continuum of protective services to children. All children who are unable to return to their own home should be considered for adoption. Proceeding with termination of parental rights implies that the county will actively pursue adoption as the permanent plan for the child(ren).

#### **7.306.1 PRE-PLACEMENT SERVICES**

##### **7.306.11 Evaluation of Child's Needs [Rev. eff. 3/2/11]**

- A. The county department shall assess the child's readiness for adoption.
- B. The county department shall make thorough efforts to place siblings together in adoption and document such efforts in the Family Services Plan. When the child is part of a sibling group and the sibling group is being placed out of the home, if the county department locates an appropriate, capable, willing, and available joint placement for all of the children in the sibling group, it shall be presumed that placement of the entire sibling group in the joint placement is in the best interests of the children. Such presumption may be rebutted by the county by a preponderance of evidence that placement of the entire sibling group in the joint placement is not in the best interests of a child or of the children.
- C. If the current caregiver is an appropriate resource, the worker will complete the Colorado Adoption Resource Registry (CARR) exclusion form and send the form to the State's adoption unit.
- D. Available resources for adoption shall be assessed and a recruitment plan developed if there is no adoptive family identified. Recruitment efforts begin when the permanency goal becomes adoption and should use all resources available. The county shall document, in the Family Services Plan, efforts to recruit and locate a permanent home for any child whose parental rights have been terminated and who is in the guardianship of the county with the right to consent to adoption.
- E. A child's best interests shall be the primary consideration in determining placement.

##### **7.306.12 Child's Right to Information**

Information regarding a child's birth family shall be maintained in the adoption record.

##### **7.306.13 Child's Social Study**

Social history and medical information shall be collected on all children whose parental rights are relinquished or terminated.

- A. Basic information shall include, but not be limited to:
1. Birth certificate
  2. Legal custody documents
  3. Record of placements

4. Family, social, educational, medical and genetic history
  5. Emotional, psychological and developmental evaluations.
- B. Information in the record should be updated when changes occur or additional information is available that would affect the child's readiness for adoption.

**7.306.14 Colorado Adoption Resource Registry (CARR) [Rev. eff. 1/1/16]**

A. Referral to Colorado Adoption Resource Registry

The county department shall submit a Child's Profile for photo listing or a Request for Exclusion to the Colorado Adoption Resource Registry:

1. If no adoptive home has been found for the child within 90 calendar days following relinquishment or termination of the parent-child relationship.
2. Following a disruption of an adoptive placement before legal finalization. The child shall be listed or excluded 90 calendar days from the date of the disruption.
3. Registration with CARR
  - a. A copy of the CARR form shall be sent via mail, email or fax to the State adoption unit.
  - b. A second copy of the CARR form and a clear, close-up picture of the child (and his/her siblings if the children are to be placed together) shall be sent to the adoption exchange for the purpose of featuring in various media resources.
4. Make a diligent search of the child's record for possible permanent placement(s) or other permanent connections. Any possible resources should be interviewed as to their willingness and/or availability as a placement for the child.
5. Interview the child regarding possible permanent placement resources.

B. Exclusion from Colorado Adoption Resource Registry

The county department may decide that the best interest of the child will not be served by a Colorado Adoption Resource Registry photo listing. The county department shall determine the reason for the exclusion from listing and send the Request for Exclusion to the State adoption unit. The county shall use the following criteria for determining reasons for exclusion:

1. An adoptive family has been found for the child or the foster parents will petition to adopt within 90 calendar days of the date the child is legally free for adoption. If the foster parents do not petition to adopt within the 90 calendar days, the child(ren) shall be photo listed with the Colorado Adoption Resource Registry and another family will be recruited for the child(ren). If there is a compelling reason that the county department and State adoption unit agree is appropriate for delaying filing of the adoption petition, this reason is to be submitted to the State adoption unit by the county department. The State adoption unit will review the foster care placement until such time as the petition to adopt is filed or the child is photo listed with the Colorado Adoption Resource Registry.

If an approved family has been identified as an adoptive home for a child and if the child has not moved into the adoptive placement within 90 calendar days of termination, the county shall photo list the child with the Colorado Adoption Resource Registry. If there is a compelling reason that the county department and the State adoption unit agree is appropriate for delaying filing of the adoption petition, this reason is to be submitted to the state review team by the county department. If the compelling reason for delaying filing the petition is approved, the state review team will review the foster care placement until such time as the petition to adopt is filed or the child is photo listed with the Colorado Adoption Resource Registry.

2. The child is:
  - a. One whose court-approved permanency goal is legal guardian-ship or other planned permanent living arrangement.
  - b. Placed with a relative or a relative is being considered as a placement resource for the child (adoption or foster care). All relatives who are providing care for a child who is legally free for adoption shall be counseled by a professional who is knowledgeable about permanency options regarding the importance of permanency through adoption, guardianship, or permanent custody. When a relative is being considered, the placement shall be made 90 calendar days from the date the child is legally free for adoption unless there is a documented extenuating circumstance.
  - c. The CARR exclusion will be considered and approved or denied by the State adoption unit. Following are conditions that are not necessarily appropriate for denying any child the possibility of a permanent placement or a permanent connection in his/her life.
    - 1) Placement in a residential child care facility, detention or corrective center, or mental hospital, and placement is not indicated by the treatment plan for the child. The county department of human or social services is required to photo list a child with the Colorado Adoption Resource Registry ninety (90) calendar days prior to discharge from the facility if the plan is for the child to return to a group home or foster care home.
    - 2) In therapy and adoptive placement is not indicated by the treatment plan for the child. The county department shall provide the review team with documentation that a therapist and others (e.g., guardians ad litem) have determined that it would not be in the child's best interest to recruit an adoptive home.
    - 3) One who is still being evaluated by specialists. The county department shall photo list the child(ren) with the Colorado Adoption Resource Registry if the evaluation is not completed within 90 calendar days of termination of parental rights.
    - 4) Twelve (12) years or older and is refusing adoption. The child shall be counseled by a professional who is knowledgeable about adoption and permanency for teens, recognizing that their consent is still required to proceed with an adoption.

**7.306.15 Selection of an Adoptive Family for a Child [Rev. eff. 3/2/11]**

- A. The county department shall use all resources available to find a home for the child. The county shall not deny or delay the placement of a child for adoption when an approved family is available outside of the county or state. If a family with an approved home assessment from another county or state requests a fair hearing, it shall be provided to the family.
- B. The county department shall comply with the Indian Child Welfare Act in placing any eligible Native American child. See Indian Child Welfare Act of 1978, in Section 7.309, et seq.
- C. An adoptive placement shall not be delayed or denied when an adoptive family of another race, color, or national origin than that of the child is available.
- D. Race, color, and national origin can only be considered in extraordinary circumstances.

**7.306.16 Purchase of Adoption Services for a Child [Rev. eff. 3/2/11]**

See Adoption Resources, Program Area 7, Purchase of Adoption Services from Agency Providers in Section 7.500.355.

**7.306.2 PLACEMENT SERVICES [Eff. 02/01/2009]**

The county department shall:

- A. Conduct a face-to-face presentation interview with the prospective adoptive parent(s). If the adoptive resource is a two-parent family, both parents shall be present for the interview. The presentation interview shall be recorded via some type of audio-recording device. Two copies of the recording shall be made.
  - 1. One copy shall be kept with the child's file.
  - 2. The second copy shall be provided to the prospective adoptive family to accompany all of the written documentation that the family receives at the end of the presentation interview.
- B. The county department shall provide all non-identifying information contained in the child's record to the prospective adoptive parent(s).
- C. All of the information provided (physically and verbally) shall be documented on the State's approved form, signed by the family, then placed in the child's record.
- D. If the family decides at a later time not to move forward with adoption or maintain a permanent relationship with the child, all information provided to the prospective adoptive family must be returned to the agency.

**7.306.21 Placement Activities [Rev. eff. 7/1/10]**

The county department shall complete the following documents and reports:

- A. Consent form for out-of-state travel and medical care.
- B. The Adoption Placement Agreement, at the time the child is legally free and placed in the home.
- C. The information sharing form, at the time a child is legally free for adoption and the prospective adoptive parents have made a decision to proceed with the adoption.

- D. At the time the county department changes the child's status from foster care to adoption, the Department's automated reporting system shall be closed in the child's birth name and opened under the new adoptive name. In addition, a new state identification number shall be reissued in the child's adoptive name.
- E. When a child in an adoptive placement whose adoption is not finalized has a name change, and case and client I.D. number(s) change entered into the Department's statewide automated system, the county department shall provide the following information to the Administrative Reviewer: the child's biological name, Trails case and client I.D. numbers, and the new name, and new Trails case and client I.D. numbers.
- F. The county shall request that the court expedite the finalization of the adoption when the child(ren) to be adopted has been in the home as a foster child(ren) for at least six months prior to the filing of the petition to adopt. Written documentation of the request shall be in the record. If the county does not request that the adoption be expedited, the State shall withhold State funds for the placement from the date of the adoption petition until the date of finalization.
- G. The county shall file a motion with the court to open the hearing to the public when all parties have consented and when it is in the best interests of the child who is, or the children who are, the subject of the adoption hearing.
- H. When a child is placed for adoption into another Colorado county, the county of residence where the child is placed shall open Medicaid when the child is receiving subsidized adoption assistance. The placing county shall send written notification to the resident county to expedite timely opening of the Medicaid benefits.

**7.306.22 Social Security Benefits for Children in Adoptive Placement [Eff. 02/01/2009]**

- A. The county department shall inform adoptive parents of the potential eligibility for Social Security benefits of any child placed with them for adoption.
- B. When a child becomes eligible for Social Security benefits and the child is receiving adoption assistance, the family must inform the agency of the receipt of these benefits.

**7.306.3 POST-PLACEMENT SERVICES [Eff. 02/01/2009]**

Following placement, the county department shall:

- A. Provide services to the child and the adoptive parents to integrate the child into the family, unless the child is eligible for and receiving other post legal adoption services.
- B. Review the information sharing acknowledgment form with the adoptive parent(s); all parties shall date and initial it before the finalization of the adoption.
- C. Inform the family of the legal procedure for adoption, and complete and submit a report to the court regarding the adoptive placement as required by the Colorado Children's Code.
- D. Place a copy of the adoption petition and the final decree of adoption in the child's record.
- E. Close finalized adoption records of children for whom the county consented to the adoption and maintain in a secure location in the county department. Within ninety (90) days of the final adoption hearing, the county department shall prepare the adoption record for closing. All information related to the child and adoptive family gathered during the adoptive process shall be included in the closed (sealed) finalized adoption record.

**7.306.31 Adoption Assistance [Eff. 02/01/2009]**

Adoption assistance is a post-placement service (see Adoption Assistance Services, Section 7.306.4).

**7.306.32 Adoption Placement Disruption**

The child's county of custody shall formulate a new Family Services Plan or the approval of such plan if the placement disrupts prior to finalization.

**7.306.33 Inter-Country Adoptions**

The county department shall, only upon approval of the State adoption unit of the Colorado Department of Human Services, provide services to a child being adopted from a foreign country, either directly from the foreign country or through an agency in another state.

**7.306.34 Adoption Records [Eff. 02/01/2009]**

- A. The county department shall maintain a record for the child in its custody who is approved for adoptive placement. It shall ensure that all documentation related to the child's adoption is in the record. The following must be included, but is not limited to:
  - 1. Court order issued at the time of initial removal;
  - 2. Voluntary placement agreement, if applicable;
  - 3. Order for termination of parental rights or order for relinquishment of parental rights;
  - 4. Child study (social history);
  - 5. Adoptive family's application;
  - 6. Adoptive family's home study and any updates, as necessary;
  - 7. Documentation of the child's special needs (7.306.4, A, 3, d, 1-5);
  - 8. Documentation of child's tribal affiliation, if applicable;
  - 9. Time and date-stamped petition for adoption;
  - 10. Final decree of adoption.
- B. Upon completion of legal adoption, the county department shall close the case on the Department's automated reporting system within 30 calendar days, unless the child receives adoption assistance.
- C. Within 90 calendar days of the date of finalization of the adoption, the county will send to the Division of Child Welfare basic data on the family and children for entry in the statewide database using the State's approved form. This information shall be supported and reflect what is in the automated case management system.
- D. In adoption assistance cases, the county department shall maintain a separate record to include the following items as long as the adoption assistance agreement is in effect for the child and family. Upon termination of this adoption assistance agreement, the record shall be closed.
  - 1. Current adoptive home study and any necessary updates;



2. Child's Summary and Application for Adoption Assistance;
  3. Initial Adoption Assistance Agreement;
  4. Court Order issued at time of initial removal;
  5. Voluntary Placement Agreement, if applicable;
  6. Subsequent Order on Review for Need of Placement, if applicable;
  7. Review of Adoption Assistance Agreement and three year reviews of need for adoption assistance or any amendments of the original adoption assistance agreement;
  8. Adoption Assistance Title IV-E Eligibility Determination Form;
  9. Title IV-E Foster Care Eligibility Determination Form;
  10. Title IV-E Redetermination of Eligibility Determination Form(s);
  11. A copy of the Social Security Income Eligibility Notification;
  12. Petition to Adopt time and date-stamped by the court;
  13. Final Adoption Decree;
  14. Orders terminating parental rights;
  15. Appeal Petition of the termination and Final Order resolving appeal of the termination;
  16. Indian Child Welfare cases, if known tribal affiliation;
  17. Documentation of the child's special needs (7.306.4, A, 3, d, 1-5);
  18. Motion to court to expedite the date of the final hearing, if applicable.
- E. County departments providing adoption assistance to children from private non-profit adoption agencies or relatives shall maintain in a secure location at the county the records containing the adoption assistance information listed in subsection D, above.
- F. County departments providing a subsequent adoption assistance agreement to children whose previous adoption was dissolved shall maintain, in a secure location at the county department, the records containing the adoption assistance information listed in subsection D, above. Additional required information includes:
1. New documentation assessing and identifying the child's continuing special needs; and,
  2. All of the adoption assistance forms and documentation from the previous adoptive family.
- G. County departments providing an adoption assistance agreement to children who were in foster care with their teen parents shall maintain, in a secure location at the county department, the records containing the adoption assistance information listed in subsection D, above. Additional required information must include proof of foster care payment made that includes both the child and his/her teen parent.

**7.306.4 ADOPTION ASSISTANCE SERVICES [Rev. eff. 12/1/12]**

Colorado operates two adoption assistance programs: the Title IV-E program and the state and county-only (non-Title IV-E) program.

A. Applicable to both programs:

1. The federal government participates in adoption assistance agreements on behalf of children who meet the eligibility criteria for the Title IV-E adoption assistance program.
2. The state and county participate in adoption assistance agreements on behalf of children who are not eligible for the Title IV-E program.
3. Adoption assistance is a program that provides assistance to adoptive parent(s) in certain defined and limited ways to provide for the needs of an eligible adopted child. Adoption assistance is intended to help or remove financial or other barriers to the adoption of Colorado children with special needs by providing assistance to the parent(s) in caring for and raising the child.
  - a. The county department may make adoption assistance payments and/or provide Medicaid or medical assistance at the time of adoptive placement, continue them after the adoption has been finalized and continue them until the adopted child has reached the age of eighteen (18), or the age of twenty-one (21) years when the county department has determined that the child has a developmental or physical disability which warrants continuance of assistance.
  - b. The determination for expiration of the agreement must be made and documented in the original negotiation and noted in the original paperwork for the adoption assistance agreement.
  - c. The county department must determine that in each case a reasonable, but unsuccessful, effort to place the child for adoption has been made before negotiating adoption assistance, unless the best interests of the child would not be served by such an effort.
    - 1) Where appropriate, the current caregiver will be given priority as the prospective adoptive family. Reasonable effort requires listing with the Colorado Adoption Resource Registry and may include presentation in the media and consultation with the state.
    - 2) The only exception to this requirement is in situations where it would be against the best interests of the child, due to such factors as the existence of significant emotional ties with the prospective adoptive parents while in their care as a foster child, or adoption by a relative (in keeping with the statutory emphasis on the placement of children with relatives).
  - d. There exists a specific factor or condition (special need) to conclude that the child cannot be adopted without providing adoption assistance or medical assistance. A "special need" is one or more of the following special, unusual, or significant factors that act as a barrier to the child's adoption:
    - 1) Physical disability (such as hearing, vision, or physical impairment; neurological conditions; disfiguring defects; and, heart defects).

- 2) Mental disability (such as developmental delay or mental retardation, perceptual or speech/language disability, or a metabolic disorder).
  - 3) Developmental disability resulting in educational delays or significant learning processing difficulties.
  - 4) Educational disability that qualifies for section 504 of the rehabilitation act of 1973 or special education services.
  - 5) Emotional disturbance (such as post-traumatic stress disorder, bi-polar disorder and other diagnoses).
  - 6) Hereditary factors that have been documented by a physician or psychologist.
  - 7) High risk children (such as HIV-positive, drug-exposed, or alcohol-exposed in utero).
  - 8) Other conditions that act as a serious barrier to the child's adoption. Conditions may include, but are not limited to, a healthy child over the age of seven or a sibling group that should remain intact and medical conditions likely to require further treatment.
  - 9) Ethnic background or membership in a minority group which may be difficult to place.
- e. The county department shall not use an income eligibility requirement (income means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance.
- f. Families applying for adoption of a child with special needs must be informed of the adoption assistance program. The particular agreement that is negotiated shall be based on the child's need and the family's circumstances.
- g. Available public programs for which the child is eligible shall be used first to address the child's needs before an adoption assistance agreement is negotiated.
- h. The county department may authorize the following types of adoption assistance agreements:
- 1) "Long-Term Adoption Assistance Agreement" means to partially meet a child's daily needs on an indefinite basis. A long-term agreement is made when the family's financial situation precludes adoption and is unlikely to change or when a child's needs take an excessive toll on the family's financial and emotional resources. This sort of monthly payment may continue until the family's or child's circumstances change, or the agreement terminates as outlined in Termination of Adoption Assistance, Section 7.306.59, of the Adoption Assistant agreement rules.
  - 2) "Time-Limited Adoption Assistance Agreement" means to partially meet the everyday needs of the child for a specified period. These are start-up costs for those things that children placed for adoption do not always have, such as sufficient clothing. Agreement partially covers unmet needs that are time limited and non-renewable.

- 3) "Dormant" or "Medicaid Only Adoption Assistance Agreement" means there is no adoption assistance payment provided at this time. County departments shall document special needs for the child in the services record and in the State Department's automated system that the potential need for financial adoption assistance exists and may need to be activated at a future time.
  4. If the child is legally available for adoption and reunited with his/her birth parent(s), the child is not eligible for adoption assistance.
  5. Medicaid is available to all Colorado children who have an adoption assistance agreement.
  6. Families who adopt children who meet the criteria for adoption assistance are eligible for non-recurring adoption expenses.
  7. The contact requirements in Section 7.001.6 shall be used prior to finalization and contacts shall be documented in the case file.
  8. Case services payments may be part of an adoption assistance agreement; these payments can be made directly to the providers of service or to the adoptive parent(s).
- B. Target groups for adoption assistance agreements:
1. Children whose special needs are a barrier to their adoption are legally available for adoption and are in the custody of a county department and the county has guardianship of the child with the right to consent for adoption.
  2. Children who are in the custody of a relative, tribe, or licensed non-profit child placement agency and meet the eligibility criteria to participate in one of Colorado's adoption assistance programs.
  3. The county department, agency, tribe, or relative requesting the adoption assistance agreement is financially responsible for the care of the child.
- C. County requirements for adoption assistance:
1. The county department shall obtain and document the diagnoses and prognoses of the child's needs that are barriers to the adoption.
  2. The documentation shall include, but is not limited to:
    - a. Medical
    - b. Psychological
    - c. Psychiatric
    - d. Placement history
    - e. Special needs: if the county department determines that the child is one with special needs for whom services will be purchased, it must confirm the special needs by a second opinion of a social worker, doctor, psychologist or mental health specialist who is outside the department.

- f. Other appropriate reports.
- 3. The county department shall determine the child's eligibility for adoption assistance on the State-prescribed form no later than the calendar month that the adoption petition is filed.
- 4. The county department shall ensure that all parties sign the adoption assistance agreement before the adoption is finalized.
- 5. The family shall be informed in writing of its right to a fair hearing.

**7.306.41 Title IV-E Adoption Assistance Program [Rev. eff. 12/1/12]**

**A. Pathways to Eligibility**

Title IV-E adoption assistance services may be provided to children whose special needs are a barrier to their adoption, who are legally available for adoption, and:

- 1. Are in the custody of the county department via a court-ordered removal;
- 2. Have Social Security Income (SSI) eligibility;
- 3. Are IV-E eligible in a previous adoption;
- 4. Are in mutual foster care placement with a county department;
- 5. Were initially removed via voluntary placement agreement;
- 6. Were voluntarily relinquished to a public or private licensed non-profit child placement agency;
- 7. Are in the custody of a relative and the children are IV-E eligible;
- 8. Are otherwise IV-E eligible but do not meet AFDC requirements, and are eligible via the requirements in Section B, 7, of this section.

**B. Requirements for Eligibility**

- 1. A child must be removed from his/her home by a court order that contains the requirements in Section 7.001.41, B.
  - a. For the purposes of Title IV-E adoption assistance only, there is no requirement for a "reasonable efforts" judicial determination; and,
  - b. Aid to Families with Dependent Children (AFDC) related requirement defined in Section 7.001.41, D.
- 2. Have Social Security Income (SSI) eligibility.
  - a. This factor must be met at any time prior to finalization of the adoption.
  - b. If eligible, the child may simultaneously receive SSI and Title IV-E adoption assistance payments.

- c. If a child is SSI eligible, there are no requirements for the AFDC requirements or the statement regarding efforts to place the child without adoption assistance.
- 3. Are IV-E eligible in a previous adoption and the adoptive parents have relinquished, had their parental rights terminated, or died and the children are placed in a subsequent adoptive placement, then the children retain Title IV-E eligibility for adoption assistance in their new adoptive placement. Additional requirements for this pathway to eligibility include:
  - a. A new determination regarding the children's continuing special needs.
  - b. Completion of new adoption assistance agreements with the new prospective adoptive parents.
  - c. If the previous adoptive parents are deceased, a copy of the death certificate must be provided.
- 4. Are in mutual foster care placement with a county department.
  - a. The children must be placed with their teen parent; and,
  - b. The foster care payment included both the children and the teen parent.
- 5. Are in foster care by voluntary placement agreement with a county department (a tribe or another public agency with which the state/county has a Title IV-E agreement). The child must meet the requirements outlined in Section 7.001.41, E.
  - a. There must have been at least one Title IV-E foster care maintenance payment made on behalf of the children under the voluntary placement agreement.
  - b. Under this factor, there is no specified amount of time that the children must have been in foster care under the voluntary placement agreement.
- 6. A child who was voluntarily relinquished to a public or private licensed non-profit agency must meet the requirements in Section 7.001.41, F., and:
  - a. A petition was filed in court to place the child outside of the home within six months of the time the child lived with the relinquishing parent; and,
  - b. A subsequent order was issued which included findings that it is in the best interests of the child to be placed out of the home; and,
  - c. Legal orders placing the child in the custody of a public or private licensed non-profit child placement agency with authority to consent to the child's adoption.
  - d. The agency must provide documentation of the efforts the agency made to place the children for adoption without an adoption assistance agreement when the child meets the AFDC-related requirements.
- 7. Effective on the dates listed in this section, if the child does not meet AFDC IV-E eligibility criteria, has special needs, and meets the following requirements in the Federal Fiscal Year in which the adoption assistance agreement is signed by all parties, the child will become categorically eligible for Title IV-E adoption assistance:

- a. October 1, 2009 (Federal Fiscal Year 2010)
  - 1) Turns sixteen (16) years of age or older at any time during this Federal Fiscal Year; or,
  - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
  - 3) Is a sibling to a child who is eligible due to age or time in foster care and placed with the aforementioned sibling.
- b. October 1, 2010 (Federal Fiscal Year 2011)
  - 1) Turns fourteen (14) years of age or older at any time during this Federal Fiscal Year; or,
  - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
  - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- c. October 1, 2011 (Federal Fiscal Year 2012)
  - 1) Turns twelve (12) years of age or older at any time during this Federal Fiscal Year; or,
  - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
  - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- d. October 1, 2012 (Federal Fiscal Year 2013)
  - 1) Turns ten (10) years of age or older at any time during this Federal Fiscal Year; or,
  - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
  - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
- e. October 1, 2013 (Federal Fiscal Year 2014)
  - 1) Turns eight (8) years of age or older at any time during this Federal Fiscal Year; or,
  - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
  - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.

- f. October 1, 2014 (Federal Fiscal Year 2015)
    - 1) Turns six (6) years of age or older at any time during this Federal Fiscal Year; or,
    - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
    - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
  - g. October 1, 2015 (Federal Fiscal Year 2016)
    - 1) Turns four (4) years of age or older at any time during this Federal Fiscal Year; or,
    - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
    - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
  - h. October 1, 2016 (Federal Fiscal Year 2017)
    - 1) Turns two (2) years of age or older at any time during this Federal Fiscal Year; or,
    - 2) Has been in foster care for any sixty (60) consecutive months prior to finalization; or,
    - 3) Is a sibling to a child who is eligible due to his age or time in foster care and placed with the aforementioned sibling.
  - i. Beginning on October 1, 2017 (Federal Fiscal Year 2018): rule 7.306.41, B, 7, applies to any child being adopted regardless of age, time in placement or sibling placement status.
8. Beginning on October 1, 2009 (Federal Fiscal Year 2010), if the youth reaches the age of sixteen (16) prior to the signatures on the adoption assistance agreement, the agreement can continue up to age twenty-one (21), if the youth meets one of the following criteria:
- a. Completing secondary school (or equivalent); or,
  - b. Enrolled in post-secondary or vocational school; or,
  - c. Participating in a program or activity that promotes or removes barriers to employment; or,
  - d. Employed eighty (80) hours per month; or,
  - e. Determined incapable of any of the above due to a documented medical condition.



9. After children have been determined eligible for Title IV-E adoption assistance payments and/or Title IV-E Medicaid benefits, Title IV-E eligibility continues as long as there is an adoption assistance agreement in effect as outlined below:
    - a. The children meet the requirements regardless of the family's state of residence.
    - b. Eligibility may continue even though no payments or Medicaid benefit is currently paid; therefore, maintaining the potential Title IV-E benefits if needed later.
    - c. Until the expiration of the original agreement unless all parties to the agreement are in concurrence. This includes, but is not limited to, the situation where the family fails to complete and return paperwork related to the three-year review of the assistance agreement.
  10. The county shall obtain documentation of school attendance or reasons for inability to attend. The documentation must demonstrate that each child who is eligible for adoption assistance and who has attained the minimum age for compulsory school attendance is:
    - a. Enrolled or in the process of enrolling in an institution that provides elementary or secondary education, or,
    - b. Instructed in elementary or secondary education at home in accordance with the home school statute, or,
    - c. In an independent study elementary or secondary education program in accordance with statute, and which is administered by the local school, school district, or Board of Cooperative Education (BOCES), or,
    - d. Incapable of attending school on a full-time basis due to the medical condition of the youth or child. The reasons shall be supported by regularly updated information in the educational plan maintained by the school, school district, or BOCES.
- C. Foster Care Placement of a Child Under an Adoption Assistance Agreement
1. Title IV-E eligibility must be determined when a child is dually placed in foster care and adoption assistance. The child does not automatically retain the Title IV-E eligibility.
  2. The State prescribed form must be completed using the adoptive parent's income.
  3. The child, upon returning to the adoptive parent(s)' home, continues to be eligible for the Title IV-E adoption assistance agreement.
- D. Eligibility Determination for Medicaid in Title IV-E Adoption Assistance
1. Children with an effective adoption assistance agreement are eligible for Medicaid in the state they reside. See Medical Resources section, 7.402 Medicaid for children covered by the Interstate Compact on Adoptions and Medical Assistance (ICAMA).
  2. An adoption assistance payment is not required to extend Medicaid coverage.
  3. Colorado is a member of the Interstate Compact on Adoption and Medical Assistance. Procedures for completing and complying with the compact are in the Medical Resources section, Children Moving from Colorado (Section 7.402.3, B.).

4. Medicaid eligibility shall be continued for IV-E eligible children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State approved form.
  5. Medicaid eligibility for all children receiving Medicaid shall be re-determined yearly only if the child continues to be eligible for Medicaid. This can be done by completing the State prescribed form or completing a form letter that the children continue to be eligible for Medicaid. This form letter shall be sent to other states by the county department to ensure continuation of Medicaid for a child who is residing out of state.
- E. County Process for Title IV-E Adoption Assistance Agreements
1. Determine and document a child's special needs and eligibility for adoption assistance.
  2. Utilize financial information regarding the family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in adoption assistance.
  3. The adoption assistance agreement shall be established in accordance with the county department's written policy. The policy shall outline the criteria used for determining the amount of adoption assistance.
  4. It is not permissible for a county to include a statement in the adoption assistance agreement that IV-E adoption assistance payments and/or services are subject to the appropriation of state funds.
  5. Make a good faith effort to negotiate an adoption assistance agreement with the adoptive parent(s). The county shall base the negotiation on the special needs of the child and the circumstances of the adoptive parent(s). If the parties cannot come to an agreement, the county department shall establish the subsidy amount. If the family disagrees with the decision, a fair hearing can be requested.
  6. Negotiate with the adoptive parents to request the amount that is needed by the family to meet the child's special needs. This may be less than the amount for which the child qualifies.
  7. The county shall establish a maximum amount that could be provided to a family. The amount shall be no more than the rate that is being paid for the child's current out-of-home care or that would have been paid if the child were in paid out-of-home care today. The monthly respite care payment that is provided under the foster care program is not a benefit under the adoption assistance program.
  8. If a child with developmental disabilities is receiving an allowance in addition to the foster care payment at the time the child is placed for adoption, the allowance may continue under the adoption assistance program if the child continues to meet the criteria outlined in "Child with Adoption assistance", Section 7.306.4, A.
  9. County departments who pay more than the county's foster care rate based on the child's original or amended adoption assistance agreement shall reimburse the State for eighty percent (80%) of the payment that is over the foster care rate.
  10. Use the State prescribed forms to document the negotiated agreement for IV-E adoption assistance and attach supporting documentation.
  11. Complete and sign the adoption assistance agreement form specifying:

- a. The dollar amount of the adoption assistance being provided, if applicable.
    - b. The duration date of the agreement:
      - 1) Until the adopted child reaches the age of 18 years; or,
      - 2) 21 years in the case of a child who is physically or mentally handicapped; or,
      - 3) On a case-by-case basis, the duration of an agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.
    - c. The services and dates of services that are covered by an effective adoption assistance agreement.
    - d. That the adoption assistance agreement must be signed and dated by all parties prior to the effective date of the agreement and before the adoption is finalized. If the county fails to completely execute the initial adoption assistance agreement prior to the effective date and prior to the finalization of the adoption, the assistance payment will become non-reimbursable by the State and IV-E moneys.
  - 12. Review the agreement every three years from the date of the initial agreement.
    - a. Any change in the adoption assistance agreement shall be related to the original barrier(s), identified at the time the decision was made that adoption assistance was needed.
    - b. In Title IV-E adoption assistance agreements, the agreement cannot be changed in any way without the agreement of all parties. The only exception is when there is an across-the-board reduction or increase in the foster care maintenance payment rate. In that circumstance, the State may adjust the adoption assistance payment without the adoptive parent(s)' concurrence.
    - c. The county department shall not add additional needs for adoption assistance payment after the adoption decree has been issued that is not directly related to the originally identified special needs of the child, or unless genetic in nature.
  - 13. The county or adoptive family may at any time negotiate changes to an existing adoption assistance agreement based on information related to the child's original condition or the family's circumstances.
- F. There are situations after finalization when adoptive parents can request a state level fair hearing before an Administrative Law Judge concerning the adopted child's eligibility for adoption assistance benefits or the amount of those benefits. These situations include, but are not limited to:
- 1. Relevant facts regarding the child that were known and not presented to the adoptive parent(s) prior to the finalization of the adoption.
  - 2. Denial of assistance based upon a means test of the adoptive family.
  - 3. Erroneous determination that a child is ineligible for adoption assistance.

4. Denial of a request for a change in payment level due to a change in the adoptive parent(s)' circumstances.
5. Failure by the county or a non-profit child placement agency to advise the adoptive parent(s) about the availability of adoption assistance for children who have been identified with special needs.
6. Decrease in the amount of adoption assistance without the concurrence of the adoptive parent(s) (for Title IV-E adoption assistance agreements, only).

**7.306.42 Non-Title IV-E Adoption Assistance [Eff. 02/01/2009]**

**A. Pathways to Eligibility**

The following are ways to become eligible for non-Title IV-E adoption assistance:

1. The county department has guardianship of the person (children) with the authority to consent to adoption.
2. The county department has guardianship of the person (children) with the right to consent to adoption, but the current caregiver has custody of the children.
3. The child(ren) is not a citizen or a qualified alien but is being adopted by a U.S. citizen or qualified alien.
4. The child was not IV-E eligible in foster care.
5. The child was placed in foster care with the county department via voluntary placement agreement with the county, but:
  - a. There was no subsequent petition with the court and a court order within 180 days of living with his/her specified relative that includes the "best interest" or "contrary to the welfare" language; or,
  - b. There was no foster care payment made while in care under the voluntary placement agreement.

**B. Foster Care Placement of a Child Under an Adoption Assistance Agreement**

1. The State prescribed form must be completed to determine IV-E eligibility using the adoptive parent(s)' income.
2. The child, upon returning to the adoptive parent(s)' home, returns to the previous non-IV-E adoption assistance agreement.

**C. Eligibility Determination for Medicaid in Non-Title IV-E Eligible**

1. Colorado children who are eligible for an adoption assistance agreement, but are not IV-E eligible are eligible for Medicaid in Colorado or reciprocal states, only.
2. An adoption assistance payment is not required to extend Medicaid coverage.
3. Medicaid eligibility may or may not be continued for non-IV-E eligible children who are out of the home for more than thirty (30) calendar days depending on the county's individual policy.

4. Medicaid eligibility for all children receiving Medicaid shall be redetermined yearly only if the child continues to be eligible for Medicaid. This can be done by completing the State prescribed form.

**D. Non-Title IV-E Adoption Assistance Payments**

1. Determine and document a child's special needs and eligibility for adoption assistance.
2. Utilize financial information regarding the family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in adoption assistance.
3. The adoption assistance agreement shall be established in accordance with the county department's written policy. The policy shall outline the criteria used for determining the amount of adoption assistance.
4. Make a good faith effort to negotiate an adoption assistance agreement with the adoptive parent(s). The county shall base the negotiation on the special needs of the child and the circumstances of the adoptive parent(s). If the parties cannot come to an agreement, the county department shall establish the adoption assistance amount. If the family disagrees with the decision, a fair hearing can be requested.
5. Negotiate with the adoptive parents to request the amount that is needed by the family to meet the child's special needs; this may be less than the amount for which the child qualifies.
6. The county shall establish a maximum amount that could be provided to a family. The monthly respite care payment that is provided under the foster care program is not a benefit under the adoption assistance program.
7. If a child with developmental disabilities is receiving an allowance in addition to the foster care payment at the time the child is placed for adoption, the allowance may continue under the adoption assistance program if the child continues to meet the criteria outlined in "Child with Adoption assistance", Section 7.306.4, A, 3, d.
8. County departments who pay more than the county's foster care rate based on the child's original or amended adoption assistance agreement shall reimburse the State for eighty percent (80%) of the payment that is over the foster care rate.
9. Use the State prescribed forms to document the negotiated agreement for non-Title IV-E adoption assistance, and attach supporting documentation.
10. Complete and sign the Adoption assistance Agreement form specifying:
  - a. The dollar amount of the adoption assistance being provided, if applicable.
  - b. Duration of the agreement:
    - 1) In non-Title IV-E adoption assistance agreements, duration is decided by county policy, according to the special needs of the child and family circumstances. It may not continue past the child's 21st birthday.
    - 2) On a case-by-case basis, the duration of an agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.

- 3) In the case of a child who turns eighteen (18), is still in high school, and has been eligible for Title IV-E adoption assistance, the child's eligibility must be changed from Title IV-E. New forms must be completed to reflect the change in the child's eligibility.
  - c. The services and dates of services that are covered by an effective adoption assistance agreement.
  - d. That the adoption assistance agreement must be signed and dated by all parties prior to the effective date of the agreement and before the adoption is finalized. If the county fails to completely execute the initial adoption assistance agreement prior to the effective date and prior to the finalization of the adoption, the assistance payment will become non-reimbursable by the State.
- 11. Review the agreement every three years from the date of the initial agreement.
  - a. Any change in the adoption assistance agreement shall be related to the original barrier(s), identified at the time the decision was made that adoption assistance was needed.
  - b. In non-Title IV-E adoption assistance agreements, any changes must be made related to the special needs of the child, the family circumstances and county policy.
  - c. The county department shall not add additional needs for adoption assistance payment after the adoption decree has been issued that is not directly related to the originally-identified special needs of the child, unless they are genetic in nature.
- 12. The county or adoptive family may at any time negotiate changes to an existing adoption assistance agreement based on information related to the child's original condition or the family's circumstances.

**7.306.43 State Monitoring/Sanction Process of Adoption Assistance Programs in Counties**

Monitoring will be conducted annually on county departments by State Child Welfare staff using a risk-based approach looking at the number and kinds of complaints received by consumers, advocates or the general public.

- A. The state will randomly select cases from the adoption assistance caseload.
- B. Each county will be given three opportunities to pass the review before a fiscal sanction is established.
  - 1. Counties passing the initial Stage I review will be reviewed every three years.
  - 2. If the county fails the initial review, a Stage II review will be conducted in the second year.
  - 3. If the Stage II review is failed, the county will go to a Stage III the next year.
- C. At each stage, the county will be given an opportunity to provide information to the state that will enable the case that is out of compliance to pass the review.
- D. A county failing the review will be offered technical assistance based on issues identified during the review and will be required to develop a corrective action plan.

- E. If the county fails all three stages, the reviewed cases that are out of compliance in the third stage will be converted to county-only funding in the third year.

**7.306.44 Basis for Establishing the Amount of an Adoption Assistance Subsidy**

This section has been moved in order to consolidate rules related to adoption assistance in one location. Refer to Sections 7.306.41 and 7.306.42.

**7.306.45 Authorized Types of Adoption Assistance Subsidies**

This section has been moved in order to consolidate rules related to adoption assistance in one location. Refer to Section 7.306.4.

**7.306.5 INSTRUCTIONS FOR REIMBURSEMENT OF ADOPTION ASSISTANCE SERVICES**

**7.306.51 Medical Payments in Adoption Assistance Agreements**

**7.306.511 General Provisions**

- A. Medical adoption assistance agreement payments are made directly to adoptive parents for a service already received or to a vendor for treatment of a physical or developmental disabilities or emotional disturbance. A medical adoption assistance agreement shall relate directly to the barrier or barriers identified at the time the initial agreement is approved.
- B. Medical adoption assistance agreements are not available for treatment of any physical or developmental disability or emotional disturbance diagnosed after finalization of the adoption.
- C. Medical adoption assistance agreements may be used to supplement any other available resource such as an adoptive family's private insurance that pays part but not all for the child's treatment (physical, mental, and emotional).
- D. Medical adoption assistance agreements can only be used for Medicaid cases if the service requested is something that would not be covered under the State Medicaid Plan and relates to the direct barrier/need identified at the time the child is placed for adoption.
- E. Adoption assistance payments for medical services shall reflect the reasonable costs of those services in the child's community.

**7.306.52 Reimbursable and Non-Reimbursable Adoption Assistance Case Services**

Case services are a type of purchased program services that support a case plan for children in out-of-home placement or an adoption assistance agreement.

Case services are provided to meet a child's special needs identified when the child is placed for adoption and which are not covered by the adoption assistance or Medicaid assistance agreements.

To be eligible for case services in an adoption assistance agreement, the State prescribed form outlining the agreement must be in place and the case open in the Department's automated reporting system as an adoption assistance case.

- A. Medical
1. Orthodontia
- a. Cosmetic reasons - not reimbursable.

- b. Special needs directly related to the reason for which the child was classified as special needs, e.g. cleft palate or injury related to an abuse will be reimbursable.

2. Eye Glasses

Eyeglasses are not reimbursable using case services dollars as Medicaid pays for one pair of glasses per year.

Payment for additional eye glasses in a year or contacts related to the child's special needs identified at the time of the initial adoption assistance agreement are reimbursable.

3. Medication

- a. Routine that is not related to the child's special needs-not reimbursable.
- b. If related to child's special needs-reimbursable. The medication must be prescribed by a licensed physician and related to the special need identified at the time the child was approved for adoption assistance.

4. Special Therapies - Speech, Occupational, and Physical

- a. If not available through other community and family resources-reimbursable. School-age children should receive these services through the school system.
- b. When these services are available in hospitals and clinics-not reimbursable as Medicaid covers these costs.

5. Special Equipment

Special medical needs/equipment, as prescribed by a physician may be reimbursable.

For severely physically challenged children, special exceptions should not exceed \$2,000 without a supervisor's written authorization.

B. Psychological Services

- 1. Time-limited out-patient therapy for children living in states that do not accept Medicaid for this service-reimbursable, if related to the child's special needs and a written plan is obtained from the service provider which contains:
  - a. Diagnosis.
  - b. Prognosis.
  - c. Length of service.
  - d. Individuals who will be seen in therapy.
  - e. A cap on the amount of money to be spent for the psychological exam or therapy.
  - f. Frequency of contact (i.e., once a week, twice a month, etc.).
  - g. Type of therapy being provided (i.e., individual, group, family, etc.).



2. If time-limited out-patient therapy is available using Medicaid – not reimbursable.
3. Day treatment - not reimbursable as Medicaid provides for this service.
4. Residential child care facility - not reimbursable as Medicaid provides for this service.
5. In-patient psychiatric hospitalization - not reimbursable as Medicaid provides for this service.

(Children who are Medicaid eligible may receive some in-patient psychiatric services under the Medicaid Program.)

**C. Educational Costs**

1. Tutoring-not reimbursable.

School systems are mandated to provide all children with special needs a free appropriate public education.

2. School tuition-not reimbursable.

There will be no reimbursement for tuition expenses through the adoption assistance program. If the family wants the child to remain in his/her current private school placement, this is an expense for which they are responsible.

**D. Respite and Day Care**

1. Respite Care-reimbursable.

2. Day Care-not reimbursable except for IV-E children. If day care services are needed and the child is IV-E eligible at the time of adoption, the family should be referred for day care services as they are eligible for Title XX services.

**E. Other Adoption Assistance Case Services**

Adoption assistance case services for either IV-E or non-IV-E may be provided for a specified time to provide needed services, such as, but not limited to, transportation to facilitate adoptive placement. It is required that these time-limited services/funds are clearly provided on a case-by-case basis. This requirement must be clearly documented in the agreement.

**7.306.53 Non-Recurring Adoption Expenses [Rev. eff. 2/1/10]**

- A.** Reimbursement for the following non-recurring adoption expenses, not to exceed \$800 per child, is available to parents adopting children with special needs:

1. Legal fees.
2. Adoption fees.
3. Other expenses related to the legal adoption of the child(ren).

- B.** The county department shall decide if an adopted child for whom reimbursement is being requested meets the criteria as a special needs child.

- C. The county department shall use the State-prescribed forms for children not in the department's custody.
- D. The county department shall use the State-prescribed forms for children in the department's custody.
- E. If no county department holds custody, reimbursement for the non-recurring adoption expenses will be based on the adoptive family's county of residence.
- F. Effective October 1, 2010, federal law specifically prohibits adoption assistance payments or non-recurring expenses on behalf of an "applicable child" who is not a citizen or resident of the U.S. and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted.

Colorado will provide non-recurring adoption assistance payment up to \$800 per child for children adopted internationally or through a private licensed non-profit adoption agency when the family has been able to:

- 1. Make application prior to the adoption.
- 2. Provide evidence of the child's special needs.
- 3. Provide evidence that the agency did child specific recruitment for the child identified.
- 4. Provide evidence the family has an approved home study.
- 5. Provide an itemized statement of the expenses to be reimbursed.

**7.306.54 Continuing Adoption Assistance Agreements Beyond Age Eighteen**

- A. If a child is 18 years of age and has not graduated with a high school equivalency or vocational training, the county may continue the adoption assistance under the State and county-only program until the child finishes high school/vocational training or is 21 years of age. The county shall document in the record that the child is enrolled full-time in high school or vocational training and are making progress in the program.
- B. If the child is eligible for a Title IV-E adoption assistance until the age of eighteen (18), that agreement must be terminated. Any new non-Title IV-E agreement must be signed by the county and the family upon or prior to the child's 18th birthday.
- C. A child who is identified in the original adoption assistance agreement as being developmentally disabled or physically handicapped, is between the age of 18-21, and continues to live at home, may continue to be eligible for the adoption assistance program as long as these disabilities were identified and documented in the original agreement paperwork or is genetic in nature.
- D. If a county continues adoption assistance beyond the child's 18th birthday without the child meeting the criteria in A or B, above, the county will be sanctioned for the adoption assistance payments made beyond the child's 18th birthday.

**7.306.55 Post-Legal Adoption Services**

The county of residence shall offer Core services to eligible families with an adoption assistance agreement according to the needs of the family.

**7.306.56      Accepting and Processing Applications for Adoption Assistance from Child Placement Agencies [Rev. eff. 2/01/10]**

- A. Colorado non-profit licensed adoption agencies can access adoption assistance if the child is in their custody and meets Title IV-E eligibility, as outlined in Section 7.001.41.
- B. The county department where the adoptive family lives will process the application for assistance.
- C. If the child is being placed out-of-state, the state in which the family resides will process the application.
- D. The county department reviews the material submitted by the child placement agency and determines the child's eligibility for Title IV-E adoption assistance.
- E. The county department shall advise the child placement agency and the family in writing within ten working days of the date of approval or denial and inform the family of its right to appeal the decision.
- F. After the county department approves the adoption assistance, it shall open the case on the Department's automated reporting system.
- G. Approved adoption assistance payments may begin as of the date of the signing of the agreement. The child placement agency is responsible for any costs before the initiation of the adoption assistance agreement and prior to finalization.
- H. Adoption assistance available to the eligible child are:
  - 1. Medicaid (Title XIX).
  - 2. Adoption assistance payment.
  - 3. Non-recurring adoption expenses.
- I. Before finalization of the adoption, the child placement agency that arranged the adoption retains responsibility for continued services to the adoptive family should they be requested.
- J. The county department shall terminate adoption assistance payments and eligibility for Medicaid as outlined in Termination of Adoption Assistance (7.306.59) and Title IV-E (7.306.41) sections.

**7.306.57      Review of Eligibility for All Ongoing Adoption Assistance Agreements [Rev. eff. 2/1/10]**

- A. The county shall review the current adoption assistance agreement every three (3) years.
  - 1. The county department shall initiate the written notice of the review for adoption assistance sixty (60) days prior to the three-year anniversary of the agreement.
  - 2. The adoptive family may request a review of the agreement prior to the three-year review if changes in the needs of the child or family circumstances occur.
  - 3. Any changes in the needs of the child shall relate to the original barrier(s), identified at the time the decision was made that adoption assistance was needed. The county department shall not add additional needs for adoption assistance payments after the adoption decree has been issued unless genetic in nature.

- B. The county shall annually review documentation of school attendance or reasons for inability to attend. The documentation must demonstrate that each child who is eligible for adoption assistance and who has attained the minimum age for compulsory school attendance is:
1. Enrolled (or in the process of enrolling) in an institution that provides elementary or secondary education, or,
  2. Instructed in elementary or secondary education at home in accordance with the home school statute, or,
  3. In an independent study elementary or secondary education program in accordance with statute, and which is administered by the local school, school district, or board of cooperative education (BOCES), or,
  4. Incapable of attending school on a full-time basis due to the medical condition of the youth or child. The reasons shall be supported by regularly updated information in the educational plan maintained by the school, school district, or BOCES.

**7.306.58 Reinstatement of Subsidy**

- A. Non-Title IV-E adoption assistance agreements may be reinstated if the services requested relate to the child's special needs which were identified at the time of the original subsidy.
- B. Reinstatement of adoption assistance agreements is not possible if the original adoptive parents no longer have legal custody of the child.
- C. When adoptive parents have relinquished, have had their parental rights terminated, or have died and the child is placed in a subsequent adoptive placement, then the child retains IV-E eligibility for reinstatement of the adoption assistance agreement in his/her new adoptive placement.

**7.306.59 Termination of Subsidy**

- A. The county department shall terminate adoption assistance agreements when the:
1. Family requests payments end; or,
  2. Child reaches age 18 or until age 21, if the county has determined that the child has a developmental or physical disability which warrants continuation of assistance; or,
  3. Adoptive parent(s) are no longer legally responsible for the support of the child; or,
  4. Child is no longer receiving any support from the adoptive family; or,
  5. County of responsibility verifies the child's death, or marriage.

- B. Procedures for Adoption Assistance Payment, Adoption Case Services and Medicaid Adoption Assistance Agreement
  - 1. When the child is receiving a non-Title IV-E adoption assistance agreement and the child is absent from the home for over 30 calendar days, the adoption assistance payment and adoption case services will be discontinued. (See Section 7.404, regarding Placement Fees for out-of-home care.) If the child is in placement in a facility where he/she comes home for holidays or visits, this is not to be used as justification for continuing the non-Title IV-E agreement. A state/county non-Title IV-E agreement can only be resumed when the child is returned home and the out-of-home placement has been discontinued on the Department's automated reporting system.
  - 2. Children with a Title IV-E adoption assistance agreement who are out of the home for more than 30 calendar days will continue to receive an adoption assistance payment if it is a part of the child's adoption agreement. (See Section 7.404 regarding placement fees for out-of-home care.)
  - 3. Medicaid eligibility shall continue for Title IV-E eligible children who are out of the home for more than 30 calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State prescribed form (see County Department Requirements, Section 7.402.2).

#### **7.306.6 RIGHT TO APPEAL**

- A. When the county department denies an application for adoption subsidy, or reduces or terminates the subsidy grant, the applicant or recipient shall have a right to appeal. See Section 3.850 of the Income Maintenance staff manual on Appeal and State Hearing (9 CCR 2503-1).
- B. When a family who has been denied Title IV-E Subsidized Adoption benefits requests a state level Fair Hearing, it is the responsibility of the Administrative Law Judge to determine whether the applicant or recipient was wrongly denied eligibility or whether the amount of the subsidy was determined correctly. (See Section 7.306.41, E, for fair hearing circumstances.)
- C. The adoptive parents have the burden of proving extenuating circumstances and adoption assistance eligibility at a state level Fair Hearing. The state and or/its designee can provide factual information to assist the family in establishing eligibility for Title IV-E adoption assistance.
- D. When either state or federal law requires or results in a reduction or deletion of services, a hearing need not be granted.

#### **7.307 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)**

The purpose of the Interstate Compact on the Placement of Children is to ensure timely placements of children across state lines in the least restrictive and appropriate settings in the 50 states, District of Columbia, and the U.S. Virgin Islands. The sending and receiving state authorities shall have sufficient background information to make informed decisions concerning a proposed placement, to arrange for the provision of services to the child as needed, and to designate where planning, financial, and jurisdictional responsibility for the child lies.

### **7.307.1 USE AND OBSERVANCE OF THE COMPACT [Rev. eff. 4/1/12]**

County departments, other Colorado licensed placement agencies, and when applicable, individual residents, shall follow all rules, regulations, and procedures of the Interstate Compact on the Placement of Children, as stated in Section 24-60-1801, 1802, C.R.S., and Section 19-1-115, C.R.S. Regulations I through XI are on file at the Colorado Department of Human Services, Interstate Compact Office, Child Welfare, 2nd Floor, 1575 Sherman Street, Denver, Colorado 80203-1714. Regulation I was amended on April 18, 2010. Regulation II was amended on April 30-May 1, 2011. Regulation III was amended on April 30-May 1, 2011. Regulation IV was amended on April 29-May 2, 2001. Regulation V was amended in April 2002. Regulation VI was amended on April 29-May 2, 2001. Regulation VII was amended on April 30-May 1, 2011. Regulation VIII was amended on April 30-May 3, 2000. Regulation IX was amended in April 2002. Regulation X was amended in April 2002. Regulation XI was adopted on April 18, 2010. These regulations are adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting. The information incorporated here by reference may be examined at the Department of Human Services as indicated above, at any county department of social services, or at any state publications depository library.

### **7.307.2 DEFINITION OF “SENDING AGENCIES”**

The Interstate Compact defines the persons and agencies who, when they place a child from one state into another state, shall follow Interstate Compact on the Placement of Children procedures. These persons and agencies are all called “sending agencies,” and include the following:

- A. A state in the United States, the District of Columbia or the U.S. Virgin Islands, or any officer or employee of a state in the United States, the District of Columbia, or the U.S. Virgin Islands.
- B. A subdivision of a state in the United States, the District of Columbia or the U.S. Virgin Islands, or any officer or employee of the subdivision.
- C. A court of a state in the United States, the District of Columbia, or the U.S. Virgin Islands.
- D. Any person, corporation, association, or charitable agency of a state in the United States, the District of Columbia, or the U.S. Virgin Islands.

### **7.307.3 AGENCY-MADE PLACEMENTS**

#### **7.307.31 Interstate Compact on the Placement of Children Initiation Procedures**

Compact procedures shall be initiated for children who are considered for placement out-of-state for:

- A. Adoption; or
- B. Homes of parents or relatives; or
- C. Foster, group, or residential child care; and
- D. Where the sending agency, such as a county department or the Court, holds legal custody or legal jurisdiction.

**7.307.32 Interstate Compact on the Placement of Children Procedures**

The county department director shall be the Compact Liaison in each Colorado county. At each director's discretion, duties of the Liaison may be delegated to staff within the county department. It is recommended that the designated liaison be at the Child Welfare Supervisor level or above. The director shall notify, in writing, the Deputy Compact Administrator of the name, title, and phone number of this designee who shall perform the day-to-day functions of the Interstate Compact on the Placement of Children Liaison and be available for Colorado and other state Interstate Compact on the Placement of Children offices to contact for assistance with Compact related situations in that county.

Interstate Compact on the Placement of Children procedures shall be followed when a child is:

- A. In the custody of a county department or under the jurisdiction of a court in one state and is considered for placement with his or her parents, relatives, non-relatives, foster parents, adoptive parents, or into residential or group care in another state.
- B. Under the jurisdiction of a county department, court, or private placement agency moves with his or her parents, relatives, foster parents, or prospective adoptive parents out-of-state.
- C. An adjudicated delinquent ordered by the court into a non-public institution out-of-state.
- D. An adjudicated delinquent who is not on probation or parole and is considered for placement with parents, relatives, foster parents, or prospective adoptive parents out-of-state.
- E. To be placed for adoption out-of-state.
- F. In the custody of a county department or under the protection of the court and has fled out-of-state and the local departments in both the sending and receiving states agree it may be in the child's best interest to remain in the site the child has chosen, pending the outcome of the home study.
- G. In the custody of a county department or under court jurisdiction and has been taken out of state or been coerced to leave the state without the court's consent; however, before ordering the child's return, the court agrees to a home study being done to determine the status of the child's living arrangement out of state to determine if the child should be permitted to stay there.
- H. In runaway status from another state and is taken into protective custody by a county department that subsequently learns that neither the parents nor any known relatives will grant the child access to their homes. In this situation, the county department shall file a Dependency and Neglect Petition on behalf of the child to enable the department to explore other relative placement possibilities out of state.

**7.307.4 DIRECT PLACEMENTS OUT OF STATE BY PARENTS OR NON-AGENCY GUARDIANS**

- A. Interstate Compact on the Placement of Children procedures shall be initiated for children who are being considered for placement out of state by parents, guardians, or relatives, into facilities not designated as medical or educational in nature when a child is considered for placement
  - 1. Out of state with a person other than a parent, step- parent, adult brother or sister, adult aunt or uncle, or grandparent.
  - 2. Out of state into a foster home, adoptive home, group home, residential facility or non-public institutional setting.
  - 3. With an out of state non-relative or non-agency guardian.

- B. The parent or guardian shall contact the local Colorado county department or the Colorado Interstate Compact on the Placement of Children state office to request information and to be provided with copies of the Interstate Compact on the Placement of Children Request to Place Child (100-A). The parent or non-agency guardian is considered to be the “sending agency” in this situation. The parent or guardian will forward the Interstate Compact on the Placement of Children request to the Colorado state Interstate Compact on the Placement of Children office which will forward the documents to the receiving state Interstate Compact on the Placement of Children office.

### **7.307.5 REQUIREMENTS**

#### **7.307.51 Requirements When Colorado is the Sending State [Emer. Rule eff. 10/1/06; Perm. Rule eff. 12/1/2006]**

The county department must determine, within fourteen (14) calendar days upon receipt of the home study report conducted by the receiving state, whether the placement is appropriate for the child.

The county department or licensed child placement agency holding legal custody or maintaining court-ordered protective supervision and considering placement of a dependent child into any site out-of-state shall:

- A. Submit information required by the state.
- B. Send a referral packet to the Deputy Compact Administrator in the receiving state and enter information from Forms 100-A and 100-B in the Child Welfare Automated Tracking System (see Section 7.307.7 on “Reporting requirements).
- C. Complete and submit the Change of Status Form (100-B) to the receiving state.
- D. Not be a party to sending or allowing a child to be taken across the state line without the “prior permission” of the receiving state Interstate Compact on the Placement of Children Administrator or his or her designated staff. Prior permission is defined as either permission or denial being granted on the 100-A or on a facsimile of the 100-A.
- E. Continue to have financial responsibility for the support and maintenance of the child during the out-of-state placement unless the placement is with a parent or a care-provider who assumes financial responsibility for the child.
- F. Be financially responsible for the return of the child if the placement disrupts and the decision is made to return the child.
- G. Send quarterly progress report form to the out-of-state foster care provider on the state designated form.
- H. Retain legal custody or the child remains under the court's jurisdiction; and,
- I. Not agree to dismissal of the Petition or termination of local court jurisdiction without one of the following four conditions being met:
  - 1. The child has been adopted.
  - 2. The child has become self supporting or legally emancipated.
  - 3. The child is 18 or older.



4. A minimum six month period of supervision has elapsed from date of Interstate Compact on the Placement of Children approval and the receiving state Interstate Compact on the Placement of Children Administrator or his/her designee has granted permission for dismissal of the Petition or termination of court jurisdiction.

**7.307.52 Requirements When Colorado is the Receiving State [Rev. eff. 4/1/12]**

When Colorado is the receiving state of an Interstate Compact on the Placement of Children Request for Placement, all such requests shall be sent by the sending state directly to the correct county department or to the Colorado Deputy Compact Administrator who shall forward the request packet to the correct county department or licensed Child Placement Agency.

- A. Upon receipt, the county department Interstate Compact on the Placement of Children liaison or designee shall review the request for compliance with the Compact and all relevant Colorado and federal laws, and take appropriate action.
- B. The county department staff or licensed Child Placement Agency staff assigned to the Interstate Compact on the Placement of Children cases shall:
  1. Complete a home study within sixty (60) calendar days of receipt of the request from the sending state.
  2. Provide protective services and supervision of the placement according to the treatment plan and case plan set up by the county department or court in the sending state.
  3. Provide written progress reports as required.
  4. Make determinations and recommendations to the sending agency for dismissal or continuation of the legal custody and jurisdiction in the sending state.
  5. Provide services, including protective services, to families and children covered by the Interstate Compact on the Placement of Children and other approved Interstate or inter-country placements as are provided to other similar placement cases that are the responsibility of a county department.
- C. These cases shall be subject to the same contact requirements as other Program Area 4, 5 or 6 cases. If circumstances prohibit such contact, the county department shall document exceptions to the minimum requirements on the alternative agency contact agreement with a signature of approval from the county department administrator or county director. Case contacts shall be documented in the State Department's automated system.
- D. Requests for placement received from other states shall be opened as Program Area 6 in the State Department's automated system.
- E. The receiving state (Colorado) may close its Interstate Compact on the Placement of Children case when one of the following conditions have been met:
  1. The child has been adopted.
  2. The child has become self supporting or legally emancipated.
  3. The child has become eighteen (18) years of age.

4. The Colorado county liaison or state Interstate Compact on the Placement of Children Administrator has granted permission for dismissal of the petition or termination of court jurisdiction.

**7.307.6 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) EXPEDITED PLACEMENT DECISION [Rev. eff. 10/1/13]**

To fulfill its obligations under Interstate Compact on the Placement of Children, interstate cases must be processed in a time frame and manner comparable to intrastate cases and intrastate hardship cases.

The expedited placement is designed to eliminate delays in the placement of children in appropriate family homes across state lines.

- A. All cases of expedited placement decision require an expedited placement decision court order.
- B. In addition, an expedited placement decision can only be made when the placement of the child is with a parent, step-parent, adult brother or sister, adult uncle or aunt, grandparent, or his/her guardian.

**7.307.61 Definition of an Expedited Placement Decision [Eff. 10/1/13]**

“Expedited placement decision” means an approval or denial of a placement resource made by the receiving state within twenty (20) business days after receipt of a complete request from the sending state.

**7.307.62 Sending State Expedited Placement Decision Court Order Findings [Rev. eff. 10/1/13]**

- A. A valid expedited placement decision court order from the sending state shall contain an express finding that one or more of the following circumstances applies to a particular case and sets forth the facts on which the court bases its finding:

The proposed placement resource is a relative as specified in 7.307.6, B, and either:

1. The child is four (4) years old or younger and his/her sibling(s) if being placed in the same home; or,
  2. The child is in an emergency placement, or,
  3. The court finds that the child or any child in the sibling group has a substantial relationship with the proposed placement resource.
- B. In cases where the sending state court is not itself the sending agency, it is the responsibility of the sending agency to keep the court, which issued the priority order, informed of the status of the priority request.

**7.307.63 County Department Processing of Sending State Expedited Placement Request [Eff. 10/1/13]**

The county staff shall obtain a copy of the sending state’s court order of expedited placement decision. County staff will ensure that the order sets forth the factual basis for a finding that an expedited placement decision applies to the child in question, whether the request includes a request for a provisional approval of the prospective placement and a factual basis for the request.

The county department shall also obtain a signed written statement by the assigned case manager in the sending state that affirms the following conditions are met:

- A. The child must be placed with a parent, step-parent, adult (as defined by the laws of the receiving state) brother or sister, adult uncle or aunt, grandparent, or his/her guardian.
- B. The relative or guardian is interested in being a placement resource and willing to cooperate with the ICPC process.
- C. The name and correct address, all available telephone numbers, other contact information of the placement resource, and the date of birth and Social Security Numbers of all adults in the home.
- D. Number and type of rooms in the residence of the placement resource to accommodate the child under consideration and the number of people, including children, who will be residing in the home.
- E. Proof of sufficient financial resources or explanation for how children will be fed, clothed and cared for.
- F. Acknowledgement that a criminal records and child abuse history check will be completed on any persons eighteen (18) years of age and older residing in the home.
- G. Based upon current information known to the sending agency, it is unaware of any fact that would prohibit the child being placed with the placement resource and that it has completed and is prepared to send all required paperwork to the sending state ICPC office.

**7.307.64 Expedited Placement Decision Requirements When Colorado is the Sending State**  
**[Rev. eff. 10/1/13]**

- A. The county department holding legal custody and considering placement of a dependent child into any site out-of-state shall complete an Interstate Compact on the Placement of Children request as outlined in Section 7.307.51 of these rules. The Interstate Compact on the Placement of Children referral packet shall include a valid expedited placement decision court order.
- B. There are specific time frames in processing expedited placement decision requests.
  - 1. Time periods in these procedures may be modified with a written agreement between the court which made the expedited order, the sending agency, the Colorado Interstate Compact on the Placement of Children county liaison and the receiving state Compact Administrator. Any such modifications shall apply only to the single case to which it is addressed.
  - 2. The court sends a copy of its signed order for expedited placement decision to the sending agency within two (2) business days of the hearing or consideration of the request.
  - 3. Within three (3) business days of receipt of the expedited placement decision court order, the county caseworker shall transmit the signed court order, completed forms, and supporting documentation to the Interstate Compact on the Placement of Children county liaison.

4. Within two (2) business days after receipt of the expedited placement decision request, the Interstate Compact on the Placement of Children county liaison shall transmit the complete expedited placement decision request and its accompanying documentation by overnight mailing to the receiving state Compact Administrator together with a notice form that the request is entitled to expedited processing.

**7.307.65 Expedited Placement Decision Requirements When Colorado is the Receiving State [Rev. eff. 10/1/13]**

- A. Within two (2) business days after receipt of a complete expedited placement decision referral packet from the sending state, the Interstate Compact on the Placement of Children county liaison shall forward the referral to the county caseworker.
- B. Within fifteen (15) business days, the county caseworker shall forward the completed home study to the Interstate Compact on the Placement of Children county liaison.
- C. Within three (3) business days after receipt of the home study, the Interstate Compact on the Placement of Children (ICPC) county liaison shall approve or deny the placement and provide the home study report to the sending state by expedited transmission.
- D. A county department is authorized to consent to the sending state's request to relinquish jurisdiction if the placement is approved with a parent from whom the child was not removed.

**7.307.7 REPORTING**

All cases provided Interstate Compact on the Placement of Children services shall be opened by the Colorado county departments on the Department's automated reporting system.

**7.307.8 OTHER TYPES OF PLACEMENTS - CHILD MOVING OUT-OF-STATE WITH FOSTER PARENTS**

When it is decided that a child should accompany his/her foster parents who are relocating out-of-state, the county department shall initiate Interstate Compact on the Placement of Children procedures to secure prior approval, whenever possible, for the placement from the receiving state.

**7.307.9 EXCLUSION**

Native American children placed by tribal authorities may be excluded or placed through Interstate Compact on the Placement of Children procedures at the choice of the tribal court.

**7.308 RELINQUISHMENT COUNSELING SERVICES**

If the child meets the target group requirements of Program Area 4, 5, or 6, county departments shall assure that relinquishment counseling services are provided:

- A. To parents considering relinquishment.
- B. To the child when twelve years of age or older, if appropriate.
- C. When court-ordered.

**7.308.1 COUNSELING AND REFERRAL ACTIVITIES**

The county department shall assure that:

- A. Relinquishment counseling, referral services, and legal activities are provided in accordance with Section 19-5-103, C.R.S.
- B. If the child is an eligible Native American child, the parents are informed of the provisions of the Indian Child Welfare Act, or any tribal-state agreement with their tribe, and the requirements for notifying tribal authorities.

### **7.308.2 COURT ACTIVITIES**

The county department shall assure that an affidavit is prepared and submitted to the court that includes the elements described in Section 19-5-103(1)(b)(II), C.R.S.

### **7.308.3 CONTACTS, RECORDS, AND DOCUMENTS**

The county department shall maintain a case file which includes court documents. The county department shall maintain the closed adoption records in a secure location at the county. See Adoption Records, Section 7.306.34.

### **7.308.4 CONFIDENTIALITY OF CONTACTS AND RECORDS**

The county department shall respect the confidential nature of the counseling and maintain confidentiality of all records and papers with respect to the relinquishment following the filing of a Petition for Relinquishment in that such records and papers are open to inspection only upon order of the court. The record shall show the parent's preference about future communications from the child.

## **7.309 INDIAN CHILD WELFARE ACT (ICWA) OF 1978**

The Indian Child Welfare Act (ICWA) of 1978 is federal legislation that establishes standards for the placement of Indian children in foster care or adoptive homes. Regulations effective on December 12, 2016 were created for the substantive legal requirements of ICWA and updated federal guidelines were also adopted at that time to clarify best practices in implementing ICWA and its regulations. All rights and privileges afforded to parents and children in any other section of this manual are applicable to rights and privileges for Indian parent(s), Indian custodian(s), and children under jurisdiction of county departments. Indian Tribes are not subject to rules related to ICWA as they have Tribal sovereignty.

### **7.309.1 DEFINITIONS**

- A. Active Efforts - Affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family. Active efforts shall involve assisting the parent(s) or Indian custodian(s) through the steps of a case plan and accessing or developing the resources necessary to satisfy the case plan to the maximum extent possible. Active efforts should be provided in a manner consistent with the prevailing social and cultural conditions of the Indian child's Tribe and should be conducted in partnership with the Indian child and the Indian child's parent(s), extended family members, Indian custodian and Tribe. Active efforts may include:
  - 1. Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
  - 2. Identifying appropriate cultural services and helping the parent(s) to overcome barriers, including actively assisting the parent(s) in obtaining such services;
  - 3. Identifying, notifying, and inviting representatives of the Indian child's Tribe to participate in providing support and services to the Indian child's family and in family meetings, permanency planning and resolution of placement issues;

4. Conducting a diligent search or intensive family finding for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parent(s);
  5. Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's Tribe;
  6. Taking steps to keep siblings together whenever possible;
  7. Supporting regular visits with parent(s) or Indian custodian(s) in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child;
  8. Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parent(s) or, when appropriate, the child's family in utilizing and accessing those resources;
  9. Monitoring progress and participation in services;
  10. Considering alternative ways to address the needs of the Indian child's parent(s) and, where appropriate, the family, if the optimum services do not exist or are not available; and,
  11. Providing post-reunification services and monitoring.
- B. Child Custody Proceedings - Any action other than an emergency proceeding that may culminate into one of the following outcomes: foster care placement, termination of parental rights, pre-adoptive placement, or adoptive placement.
- C. Continued Custody – Physical or legal custody that the parent(s) or Indian custodian(s) has or had at any point in the past and may be applicable by Tribal law or custom.
- D. Domicile – For a parent(s) or Indian custodian(s), the place at which a person has been physically present and that the person regards as home; a person's fixed principal and permanent home, to which that person intends to return and remain indefinitely even though the person may be currently residing elsewhere.
- E. Emergency Placement - Child(ren) must be in imminent danger of moderate to severe physical damage or harm with clear and convincing evidence available to be presented before the court . Emergency placement may not last longer than thirty (30) days.
- F. Emergency Proceeding- Includes any court action that involves an emergency removal or emergency placement of an Indian child.
- G. Existing Indian Exception – repealed.
- H. Indian Custodian(s) - Any Indian who has legal custody of an Indian child under Tribal law, custom, or by state law, including those situations when the parent(s) has transferred temporary physical care, custody, and control to another individual.
- I. Indian Foster Home – A foster home in which one or more of the foster parent(s) is a member/citizen of a federally recognized Indian Tribe, or who is an Alaska native and a member of a regional corporation.

- J. Involuntary Proceeding – A child custody proceeding in which the parent does not consent of his or her free will to the foster care, pre-adoptive, or adoptive placement or termination of parental rights. This includes parental consent under threat of removal by a court or county department.
- K. Indian Tribe - Any Indian Tribe, band, nation, or other organized group federally recognized as eligible for the services provided to Indians including Alaskan native villages.
- L. Qualified Expert Witness - An individual who is qualified to testify regarding whether the child's continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical harm to the child and is qualified to testify as to prevailing social and cultural standards of the Indian child's Tribe. A person may be designated by the Indian child's Tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe. The court or any party may request the assistance of the Indian child's Tribe or the Bureau of Indian Affairs (BIA) in locating persons qualified to serve as expert witnesses. The case worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child.
- M. Tribal Court - A court with jurisdiction over child custody proceedings and which is either a court of Indian offenses, a court established and operated under the code or custom of an Indian Tribe, or any other administrative body of a Tribe which is vested with authority over child custody proceedings.
- N. Tribal Sovereignty – Refers to Tribe's rights to govern themselves, define their own membership, manage Tribal property, and regulate Tribal business and domestic relations; it further recognizes the existence of a government-to-government relationship between such Tribes and the federal government.
- O. Status Offense - An offense that would not be considered criminal if committed by an adult, and are prohibited only because of a person's status as a minor, such as truancy. If an Indian child is being removed because he or she committed a status offense, then ICWA applies.

**7.309.2 DETERMINATION OF ELIGIBILITY - INDIAN CHILD WELFARE ACT**

Indian children served under the ICWA shall meet the following criteria for eligibility:

- A. The Indian child must be:
  - 1. unmarried;
  - 2. under eighteen (18) years of age; and either,
  - 3. a member or citizen of an Indian Tribe; or,
  - 4. eligible for membership or citizenship in an Indian Tribe and the biological child of a member/citizen of an Indian Tribe.
- B. If the child-custody proceeding extends beyond an Indian child's eighteenth (18th) birthday, ICWA continues to apply.

**7.309.3 NOTIFICATION PROCEDURES - INDIAN CHILD WELFARE ACT**

**7.309.31 Notification Requirements - Indian Child Welfare Act**

- A. The county department shall notify the parent(s), Indian custodian(s) and any potential Tribe or Tribal court of jurisdiction that an Indian child is in need of placement or if a petition for-termination of the parent-child legal relationship has been filed with the court, when the parties have reason to know that an Indian child is involved, except in an emergency placement. The county department shall ask each participant in the case if they know or have reason to know that a child is an Indian child in any of the following:

1. Any involuntary placement of a Indian child; or
2. Any voluntary placement of any Indian child for foster care or petition for relinquishment as provided in the Tribal-State agreement under ICWA.

- B. Notice is necessary to ensure that parent(s), Indian custodian(s), and Tribes have the opportunity to participate in the proceeding.

Notice shall be sent by registered or certified mail with return receipt requested, of the pending child-custody proceeding and their right to intervene. The following information shall be provided as part of this notice:

1. Identifying information for the child, including name, birthdate and birthplace;
2. Parent(s)' names, including any known maiden or former names or aliases, birthplaces and birthdates and Tribal enrollment numbers or as much information as known;
3. If known, the names, birthdates, birthplaces and Tribal enrollment information of other direct lineal ancestors of the child, such as grandparent(s);
4. The name of each Indian Tribe in which the child is a member/citizen or may be eligible for membership/citizenship if a biological parent is a member/citizen;
5. A copy of the petition initiating the child-custody proceeding and a description of the potential legal consequences of the proceeding and if a hearing has been scheduled, information on the date, time and location of the hearing;
6. The name of the petitioner and the names and addresses of the petitioner's attorney;
7. Rights of any parent or Indian custodian(s) of the child to intervene in the proceedings;
8. The Indian Tribe's right to intervene at any time in a state-court proceeding for the foster care placement of or termination of parental rights to an Indian child;
9. The rights that if the child's parent(s) or Indian custodian(s) is unable to afford counsel based on determination of indigency by the court, the parent(s) or Indian custodian(s) has the right to court-appointed counsel;
10. The right to be granted, upon request, up to twenty (20) additional days to prepare for the child-custody proceedings;
11. The right of the parent(s) or Indian custodian(s) and the Indian child's Tribe to petition the court for transfer of the foster care placement or termination of the parental rights proceeding to the Tribal court;



12. The mailing addresses and telephone numbers of the court and information related to all parties; and
  13. The potential legal consequences of the child custody proceedings on the future parental and custodial right.
- C. Copies of these notices shall be sent to each of the following:
1. The Tribe where the child may be a member/citizen, or eligible for membership/citizenship; and
  2. The child's parent(s) and if applicable the child's Indian custodian(s).
- D. If the identity or location of the child's parent(s), the child's Indian custodian(s), or the Tribes in which the Indian child is a member/citizen or eligible for membership/citizenship cannot be ascertained, but there is reason to know the child is an Indian child, notices of the child custody proceeding shall be sent to the Bureau of Indian Affairs (BIA) regional director to establish Tribal identity.
- E. Notice for the Colorado regional director shall be sent to the following address:
- Albuquerque Regional Director  
Bureau of Indian Affairs  
615 First Street, P. O. Box 26567  
Albuquerque, New Mexico 87125
- F. The BIA will not make a determination of Tribal membership/citizenship but may, in some instances, be able to identify Tribes to contact.
- G. Notice may also be sent via personal service or electronically, but such alternative methods do not replace the requirement for notice to be sent by registered or certified mail with return receipt requested.
- H. The county department shall exercise due diligence to:
1. Identify the Tribe;
  2. Work with the Tribe to verify whether the child is a citizen/member or their biological parent is a citizen/member and the child is eligible for citizenship/membership; and,
  3. Treat the child as an Indian child, unless and until the court determines that the child is not an Indian child.

**7.309.32 Initial Notification - Involuntary Placements - Indian Child Welfare Act**

- A. The county department shall give notice in involuntary placements by telephone or via email within 48 hours, followed by a registered or certified mail with return receipt requested, to the parent(s), Indian Custodian(s), if applicable, and the child's Tribe.
- B. The county department shall observe the following timelines (except for emergency placements) before a judicial request for placement can be made. The county department shall wait at least 10 working days after receiving the return receipt of notice before proceeding with a judicial request when the notice has been sent to:

1. The parent(s) or Indian Custodian(s). If the parent(s) or Indian Custodian(s) requests time to prepare for the proceeding, the county department shall petition the court to set the hearing no earlier than 30 calendar days after receipt of notice.
2. The Tribe. If the Tribe requests time to prepare for the proceeding, the county department shall petition the court to set the hearing no earlier than 30 calendar days after receipt of notice.

**7.309.33 Initial Notification - Voluntary Placements - Indian Child Welfare Act**

- A. The county department shall give notice to the Tribe, when a placement is voluntary or a relinquishment is contemplated, in the same manner as noted immediately above, or according to the Tribal-State Agreement if the child is a member/citizen of the Ute Mountain Ute or enrolled or eligible for enrollment in the Southern Ute Indian Tribe.
- B. The county department shall file a Petition for the Review of Need of Placement by the 90th day of out of-home care as outlined in Court Related Procedures, Section 7.304.53.
- C. The county department shall follow step B. outlined in Section "Initial Notification-Involuntary Placements" when the child is placed due to a voluntary relinquishment.

**7.309.34 EMERGENCY PROCEEDINGS – INDIAN CHILD WELFARE ACT**

- A. Emergency proceedings can only be used if it is necessary to prevent imminent danger of physical harm to the child. The county department shall petition the court to terminate the emergency proceeding immediately when the removal or placement is no longer necessary to prevent imminent danger of harm to the child. An emergency proceeding can be terminated by one or more of the following actions:
  1. Returning the child to the parent(s) or Indian custodian(s);
  2. Transfer of the child to the jurisdiction of the appropriate Indian Tribe; or,
  3. Initiation of a child-custody proceeding subject to the provisions of ICWA.
- B. Active efforts shall be applied in emergency placements when possible.
- C. Emergency placements regarding an Indian child shall not be continued for more than 30 days unless the court makes one of the following determinations:
  1. Returning the child to the parent(s) or Indian custodian(s) would subject the child to imminent physical harm;
  2. The court has been unable to transfer the proceeding to the jurisdiction of the appropriate Indian Tribe; or,
  3. It has not been possible to initiate a child custody proceeding.

**7.309.4 TRANSFER OF JURISDICTION FROM STATE COURT TO TRIBAL COURT**

- A. Upon the Tribe's petition for transfer of jurisdiction, the county department shall carry out the transfer to the Tribe within five (5) working days, unless either parent or the Indian Custodian(s) objects to a transfer; where the Tribal court declines the transfer; or the court determines there is good cause not to transfer jurisdiction. A county department shall not request a good cause determination based on the following:

1. The child custody proceeding is in the advanced stages, if the parent(s), Indian custodian(s), or Indian child's Tribe did not receive notice of the proceeding until an advance stage;
  2. Prior proceedings involving the child for which no petition to transfer was filed;
  3. Predictions of whether the transfer could result in a change in the placement of the child;
  4. The Indian child's perceived cultural connections with the Tribe or reservation;
  5. Consideration of any perceived inadequacy of judicial systems;
  6. Consideration of the perceived socioeconomic conditions within a Tribe or reservation; or,
  7. Consideration of bonding or attachment that resulted from time spent in a non-preferred placement that was made in violation of ICWA.
- B. The county department shall prepare child(ren) for legal transfer to the Tribal court of jurisdiction as appropriate to their age. Such preparation shall include:
1. Information about reasons for the transfer and its timing.
  2. Involvement of the child in the plans for transfer (see Pre-Placement Activities, Section 7.304.61).
- C. The county department shall coordinate plans for the transfer of the child(ren) with the Tribal agency responsible for accepting custody of the child(ren) prior to the transfer.
- D. The county department shall expeditiously provide a complete copy of its file(s) concerning the Indian child(ren) to the Indian child's Tribe.

#### **7.309.5 FOSTER CARE AND PRE-ADOPTIVE PLACEMENTS - INDIAN CHILD WELFARE ACT**

The county department shall make every effort to make placements:

- A. In the most appropriate, least restrictive setting, that most approximates a family and best meets the needs of the child, taking into consideration:
1. Sibling attachment;
  2. The Indian child's special needs (if any); and,
- B. Within a reasonable distance to the child's home, extended family, or siblings.
- C. The parent or Indian custodian may withdraw consent to voluntary foster care placement at any time and have the Indian child returned to them as soon as practical.

#### **7.309.6 ORDER OF PREFERENCE - INDIAN CHILD WELFARE ACT (FOSTER CARE AND PREADOPTIVE PLACEMENT)**

The county department shall place eligible Indian children for foster care or pre-adoptive placement according to the following order of preference. It shall do so, unless the child's Tribe has established another order, or unless it has good cause to the contrary, as documented in the child's record.

**A. For Out-of-Home Care/Pre-Adoptive Placement:**

The county department shall engage the Tribe at the earliest possible opportunity to not hinder the Tribes' ability and options regarding placement preference in foster care or pre-adoptive placements. Under ICWA the county department shall use the following order of preference unless the Indian child's Tribe has identified a different placement preference than the following

1. Member of child's extended family;
2. Foster home licensed/certified, approved or specified by the Indian child's Tribe;
3. Indian foster home licensed/certified, approved or specified by an authorized non-Indian authority; or
4. Institution for children approved by an Indian Tribe or operated by an Indian organization which has programs suitable to meet the needs of Indian children.

**B. The county department shall not depart from placement preference based on the socioeconomic status of any placement relative to another placement or based on the ordinary bonding or attachment that results from time spent in a non-preferred placement that was made in violation of ICWA.**

**C. The following are the only actions considered good cause to deviate from placement preferences:**

1. Request from the parent(s);
2. Request from the child;
3. Sibling attachment; or,
4. Extraordinary physical, mental or emotional needs of the child; or,
5. The unavailability of a suitable preferred placement.

**D. The county department shall follow a different order of preference if one is established by the Tribe, so long as the placement is the most appropriate and least restrictive setting to meet the child's needs. Where appropriate, the preference of the Indian child or parent(s) shall be considered. If a consenting parent has a desire for anonymity, the county department shall give weight to such desire in applying the preferences.**

**7.309.7 PLACEMENTS INVOLVING STATUS OFFENSES- INDIAN CHILD WELFARE ACT**

**A. ICWA includes requirements that apply whenever an Indian child is the subject of a proceeding involving status offenses if any part of that proceeding results in the need for out-of-home placement for the child, including a foster care, pre-adoptive, or adoptive placement or termination of parental rights.**

**B. The county department shall ensure that the consent signed by the parent(s)/Indian Custodian(s) shall contain all of the following:**

1. Name and birth date of child.
2. Name of child's Tribe.
3. Child's enrollment number or other indication of membership/citizenship in the Tribe.

4. Name, address and Tribal enrollment number of consenting parent(s)/custodian(s).
5. Name and address of prospective parent(s), if known, for substitute care placements.
6. Name and address of person or agency through whom placement arranged, if any, or adoptive placements.

#### **7.309.8 Involuntary Termination of Parent-Child Relationship - Indian Child Welfare Act**

When terminating the parent-child legal relationship of a child under ICWA, the county department shall provide the court of jurisdiction with evidence beyond a reasonable doubt, including testimony of qualified expert witness. (See section 7.309. 1).

##### **7.309.81 Relinquishment of Child for Adoption**

- A. A voluntary relinquishment of an Indian child may be done in a state court when the parent(s) chooses to file a relinquishment petition under Colorado statutes.
- B. The county department shall not petition the court for relinquishment before 10 days after the child's birth.
- C. The county department shall follow the procedure outlined for court ordered placement in the "Initial Notification - Involuntary Placements" section. If the child is from either Ute Mountain Ute or Southern Ute Indian Tribe, the county department shall comply with the Tribal-State Agreement.
- D. The county department shall not accept voluntary consent for foster or adoptive care unless all of these conditions are met:
  1. The consent is voluntary and obtained free of fraud or duress;
  2. The consent is in writing and recorded before a judge; and,
  3. The consent is accompanied by the judge's certificate ensuring that terms and consequences of the consent were fully explained in:
    - a. Detail and fully understood by the parent(s) or Indian custodian(s).
    - b. English or interpreted into a language understood by the parent(s) or Indian custodian(s).
- E. Withdrawal of consent may apply to relinquishment of parental rights. In these situations the parent(s) or Indian custodian(s) may withdraw consent for any reason at any time prior to the entry of the final decree of relinquishment and have the child returned.

##### **7.309.82 ORDER OF PREFERENCE - INDIAN CHILD WELFARE ACT, ADOPTION**

- A. The county department shall make placements of eligible Indian children for adoption according to the following order of preference, unless there is good cause to the contrary as determined by the court, or where the Indian child's Tribe has not established a different order of preference. Preference shall be given in descending order, as listed below:
  1. A member of the child's extended family;
  2. Other members of the Indian child's Tribe; or

- 3. Other Indian families.
- B. The county department shall also consider, when appropriate, the placement preference of the Indian child or Indian child's parent(s).

**7.309.83 DOCUMENTATION– INDIAN CHILD WELFARE ACT**

- A. The county department shall document all active efforts, notice provided, and departures from placement preferences in the state automated case management system.
- B. The county department shall maintain records evidencing the efforts to comply with placement preference. These records shall be made available at any time upon the request of the BIA or the Indian child's Tribe. Efforts to comply shall include documentation by the county department to search diligently for placement which falls within the preference of the act.
- C. The county department bears the burden of proving by clear and convincing evidence that there is good cause to depart from placement preference, and the court's determination of good cause shall be made on the record and in writing and maintained by the county department.
- D. The county department shall maintain records of every voluntary or involuntary foster-care, pre-adoptive and adoptive placement of an Indian child and make the records available within fourteen (14) days upon request of the secretary of the BIA or the Indian child's Tribe. The record shall contain, at a minimum, the petition or complaint, all substantive orders entered in the child-custody proceeding, the complete record of the placement determination, and if the placement departs from the placement preferences, detailed documentation of the efforts to comply with the placement preference.

**7.309.84 Disrupted or Changed Placement - Foster Care or Adoption - Indian Child Welfare Act Notice to Parent(s) and the Tribe**

- A. When a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent(s) has voluntarily consented to the termination of his or her parental rights to the child, the county department shall notify the child's parent(s), Indian Custodian(s), and Tribe of jurisdiction within 10 working days. These parties may petition for return of custody and the court shall grant such petition unless there is a showing that such return of custody is not in the best interests of the child. (See Order of Preference, Section 7.309.83.) This notice shall inform the recipient of her or his right to petition for return of custody of the child. The Tribe shall also be notified of changes or disruptions in adoptive placements.
- B. Notice shall be sent by registered or certified mail with return receipt requested to the parent(s), Indian custodian(s) and the Tribe whenever a final decree of adoption has been vacated.

**7.309.85 ADOPTION DECREE**

- A. The county department shall provide notice of any voluntary or involuntary adoption of an Indian child to the BIA within 30 days of the final decree, to the following address:

Bureau of Indian Affairs, Chief  
Division of Human Services  
1849 C Street NW., Mail Stop 4513 MIB  
Washington DC 20240

- B. The following information shall be included, in an envelope marked "confidential":

1. Birth name and birthdate of the Indian child, and Tribal affiliation and name of the Indian child after adoption;
2. Names and addresses of the biological parent(s);
3. Names and addresses of the adoptive parent(s);
4. Names and contact information for any agency having files or information relating to the adoption;
5. Any affidavit signed by the biological parent or parents asking that their identity remain confidential; and
6. Any information relating to Tribal membership/citizenship or eligibility for Tribal membership/citizenship of the adopted child.

### **7.310 FAMILY STABILITY SERVICES (FSS)**

- A. Family Stability Services shall be provided within context of a support plan. The Family Services Plan or other existing plan may be utilized if it meets minimum qualifications; otherwise, the State shall provide a format for the support plan. The support plan shall identify at a minimum:
  1. Family strengths;
  2. Family's unique needs;
  3. Appropriate service and supports based on strengths and needs; and,
  4. Family generated goal(s) within service time frames.
- B. The program goals of FSS are to assist in the provision of appropriate and necessary short-term services to help stabilize families in order to:
  1. Preserve the family unit, including kin and adoptive families; or,
  2. Reintegrate children with their families, including adoptive families.

#### **7.310.1 DEFINITIONS**

Family Stabilization Services consists of the following services areas:

- A. "Respite Care": a service to provide temporary care to children who are not in an out-of-home placement through the county departments of social/human services and to their families who request a short break in parenting in order to stabilize family environment. Respite may occur outside of the home and in the home settings for less than 24 hours. The family may choose appropriate respite care providers including, but not limited to, kin, friends and licensed providers depending on the needs of the family and available resources.
- B. "In-home Services": short-term, solution-focused services provided to children who are not in an out-of-home placement through the county departments and to their families, based on their unique needs in order to strengthen the home environment so that children do not need a higher level of intervention or out-of-home placement.

- C. "Reintegration Services": transition services to assist children and families to reintegrate following an out-of-home placement. Service elements would prepare children and their families for successful reunification.

#### **7.310.2 PROGRAM ELIGIBILITY**

- A. County departments may make available Family Stability Services, subject to available resources, to families who meet the eligibility criteria. These services shall be provided through contracts or service agreements with private or nonprofit organizations or entities whenever possible.
- B. In order to be eligible for the Family Stability Services:
  - 1. Each family shall be in need of services to stabilize the home environment; or have been reunited with the child(ren) following an out-of-home placement.
  - 2. Each family must also:
    - a. Voluntarily request such services; and,
    - b. Have utilized existing resources or existing services, which have not met the family's needs; and,
    - c. Have the potential to stabilize the family environment.

#### **7.310.3 SERVICE ELEMENTS**

Family stability services may include, but are not limited to, the following array of services in order to address the diverse needs of the family:

- A. Crisis Intervention: Crisis services such as phone or in-home counseling, crisis counseling, respite care (less than 24 hour) or acute interventions aimed at alleviating the crisis.
- B. Family Support Services: Family strengthening services such as parent education, family group conferencing, tutoring, mentoring, life skills training, home visitation, mediation, conflict resolution, family advocacy, support groups, recreational activities and linkages to other community resources.
- C. Therapeutic Services: These services could include individual and family counseling, aftercare treatment, multi-systemic therapy, case management, and other therapeutic interventions.

#### **7.310.4 SERVICE TIME FRAMES**

Service time frames shall be outlined in the support plan.

- A. Respite services must be less than 24 hours of continuous care and may be provided up to three (3) months. Respite services should be provided within 24 hours of identification of the need.
- B. In-Home services may be provided up to three (3) months. The family should be linked to organized and/or natural supports within the community within one (1) week of the identification of the need.
- C. Reintegration services may be provided up to three (3) months. The family should be linked to therapeutic services within one (1) week of identification of the need.



- D. Extensions to the initial provision of service are optional; if a review process is described in the county Family Stability Services plan and the support plan indicates that the family will benefit from an extension of services in order to stabilize the home environment.

#### **7.310.5 WORKLOAD STANDARDS**

Workload standards shall be determined by the local county department and/or by community-based agencies and outlined in the county Family Stability Services plan.

#### **7.310.6 PERFORMANCE INDICATORS [Rev. eff. 4/1/12]**

Family Stability Services' success shall be measured by the degree to which the following performance indicators, as identified in the support plan, are achieved by clients:

- A. Crisis Intervention  

The family has improved family interactions and has demonstrated the ability to alleviate a crisis.
- B. Family Support Services  

The family has created and has shown its ability to utilize an informal or/and formal support system within the community that is readily accessible during stressful family situations to enable the members to remain safely together.
- C. Therapeutic Services  

The family has identified its strengths and demonstrated an increased capacity to advocate for itself and manage the day-to-day stressors of working as a family unit.

#### **7.311 RELATIVE GUARDIANSHIP ASSISTANCE PROGRAM [Rev eff. 12/1/12]**

The Relative Guardianship Assistance Program provides assistance to a relative guardian in a defined and limited manner so that permanency is achieved for an eligible youth or child. Relative guardianship assistance is intended to help or remove financial or other barriers for a relative guardian, as defined in Section 7.311.1, of a Colorado youth or child by providing assistance to the relative guardian to care for and raise the youth or child. The Relative Guardianship Assistance Program elements are as follows:

- A. Reunification and adoption efforts must have been exhausted and those goals have been ruled out based on individualized needs.
- B. The program is most appropriate for older youth who choose not to be adopted and who want to maintain familial ties while living safely and achieving permanency with a relative guardian.
- C. The program shall not supplant diligent reunification or adoption efforts.
- D. Youth who are twelve (12) years and older and who refuse adoption shall receive ongoing counseling by a professional who is knowledgeable about adoption and permanency issues.
- E. All requirements of this section relate solely to the Relative Guardianship Assistance Program and excludes any other type of guardianship.

**7.311.1 ELIGIBILITY REQUIREMENTS [Rev. eff. 1/1/16]**

Eligibility requirements for the prospective relative guardian and youth and/or child must be documented in the Family Services Plan in the child welfare case management system and are as follows, including the definition specific to relationships for a kinship foster home in § 19-1-103 (71.3), C.R.S.:

- A. For the purpose of the Relative Guardianship Assistance Program, a relative is defined as:
  - 1. An adult who is related to the youth or child in the fifth (5th) degree of kinship;
  - 2. Related to the youth or child through marriage or adoption;
  - 3. A person ascribed by the family as having a family-like relationship; or,
  - 4. An individual that had a prior significant relationship with the youth or child.
- B. The most recent removal occurred through a court order, or a voluntary placement agreement and subsequent court order for authority for placement that includes a judicial determination that continuation in the home would be contrary to the welfare of the youth or child; and,
- C. The prospective relative guardian was the:
  - 1. Relative foster care parent for the youth or child for a minimum of six (6) consecutive months while the youth or child resided in the home, excluding breaks in full certification due to provisional or probationary certificates being issued, or other adverse action taken regarding the certificate or,
  - 2. Non-relative foster care parent for a minimum of twelve (12) consecutive months while the youth resided in the home, excluding breaks in full certification due to any adverse action taken regarding the certificate if all of the following requirements are met:
    - a. The youth is twelve (12) years of age or older; and,
    - b. The youth consents to guardianship or allocation of parental responsibilities (apr) with the foster parent; and,
    - c. The dependency and neglect court finds that the youth has a substantial psychological tie to the foster parent and it would be seriously detrimental to the emotional well-being of the youth to remove the youth from the foster parent's care as referenced in § 19-3-702 (5) (a) (III) and (5) (b), C.R.S.; and,
    - d. the dependency and neglect court makes a finding pursuant to § 19-3-702 (5) (a) (III), C.R.S., that the foster parent is unable to adopt the youth because of exceptional circumstances, which do not include unwillingness to accept legal responsibility for the youth, but is willing and capable of providing the child with a stable and permanent environment; and,
    - e. In the case of the sibling(s) of a child meeting the requirements in (a-d) residing in the same foster care home, the siblings must meet the requirements in (c-d).
- D. Reunification and adoption are not appropriate permanency goal options for the youth or child; and,
- E. The youth or child demonstrates a strong attachment to the relative; and,

- F. Youth who are age twelve (12) or older are consulted about their expressed wishes to be placed in a relative guardianship (refer to Section 7.311.2, A); and,
- G. The prospective relative guardian has a strong commitment to caring for the youth or child permanently; and,
- H. The reason why permanent placement with a prospective relative guardian and receipt of a relative guardianship assistance payment is in the best interests of the youth or child.

**7.311.2 COUNTY DEPARTMENT RESPONSIBILITIES [Rev eff. 1/1/16]**

The county department of human or social services shall assess and demonstrate the appropriateness of the youth or child for the Relative Guardianship Assistance Program.

Documentation in the Family Services Plan in the State automated case management system shall include:

- A. Efforts to discuss adoption with the kinship foster care parent as the more permanent option for the youth and/or child and the reasons that the prospective relative guardian is unwilling to adopt. The goal of the discussion shall be to assure that the prospective guardian makes a fully informed decision regarding the permanency options that are available. The discussion shall include, but not be limited to, the following areas:
  - 1. The legal differences between termination of parental rights for adoption and the transfer of guardianship;
  - 2. The relationship with the birth or custodial family; and,
  - 3. Visitation with the birth or custodial family and sibling as outlined in Section 7.311.21, B.
- B. The prospective relative guardian understands the significance of permanency through guardianship and the importance in continuing to be a permanent family after the youth or child exits the relative guardianship assistance program.
- C. Efforts to discuss the relative guardianship assistance arrangement with the parents or legal custodians of the youth or child, and if it was not discussed with the parents, provide the reasons why the efforts were not made.
- D. If relinquishment or termination of parental rights occurred for the youth or child, how the requirements in Section 7.306 are met to assure that concerted efforts to achieve adoption were made and documented. When the goal of adoption is ruled out, the requirements in Section 7.306.14, B, 2 (Colorado Adoption Resource Registry) shall be met.

**7.311.21 Placement with Siblings [Rev. eff. 1/1/16]**

In addition to requirements in Section 7.301.24, the county department of human or social services shall document:

- A. The efforts to place siblings together in the kinship foster care home.
- B. The ongoing efforts to facilitate placement together, and the efforts to maintain frequent visitation and ongoing connections for siblings that live apart.

**7.311.22 Inclusion of Siblings in a Relative Guardianship Assistance Agreement [Eff. 2/1/10]**

- A. Sibling(s) of a youth or child who meet all other requirements identified in Section 7.311.1 except the Title IV-E eligibility may be included in the same relative guardianship assistance agreement when there is agreement by the sibling(s) of the youth or child, prospective relative guardian, and the county department that the arrangement is in the best interests of the sibling(s) of the youth or child. This may occur on or at a later date than the youth or child who is Title IV-E eligible, and
- B. Relative guardianship assistance payments may be made on behalf of each sibling in the same relative guardianship assistance agreement.

**7.311.3 RELATIVE GUARDIANSHIP ASSISTANCE RECORDS [Eff. 2/1/10]**

- A. Information in the record shall be updated when changes occur or additional information is available.
- B. Upon termination of the Relative Guardianship Assistance Agreement the record shall be closed.

**7.311.4 BENEFITS [Eff. 2/1/10]**

Social/Supplemental Security benefits for a youth or child in a Relative Guardianship Assistance Agreement:

- A. The county department shall inform the prospective relative guardian of the potential eligibility for Social/Supplemental Security benefits for any youth or child placed with them.
- B. When a youth or child is eligible for Social/Supplemental Security benefits and is receiving relative guardianship assistance, the relative guardian must inform the agency of the receipt of these benefits.

**7.311.41 Legal Residence of the Youth or Child in a Relative Guardianship Assistance Agreement for Medicaid [Eff. 2/1/10]**

- A. Following the court appointment of relative guardianship, if the youth or child resides in a different county than the county in which the relative guardianship was granted in Colorado, the county of residence where the youth or child is placed shall open Medicaid benefits.
- B. The placing county department shall send written notification to the resident county to expedite timely opening of the Medicaid benefits.

**7.311.42 For Chafee Foster Care Independence Program Services, see Section 7.305.4. [Eff. 2/1/10]**

**7.311.5 RELATIVE GUARDIANSHIP ASSISTANCE PROGRAM SERVICES [Rev. eff. 12/1/12]**

- A. The Relative Guardianship Assistance Program includes Title IV-E and a state and county-only (non Title IV-E) program.
  - 1. The federal government participates in relative guardianship assistance agreements for youth and children who meet the eligibility criteria for the Title IV-E relative guardianship assistance program.
  - 2. The state and county participate in relative guardianship assistance agreements for youth and children who are not eligible for the Title IV-E program.

- B. The Relative Guardianship Assistance Program provides assistance to a relative guardian in a defined and limited manner so that permanency is achieved for an eligible youth or child where reunification and adoption are not appropriate goals. The following requirements are applicable to both programs:
1. The county department may make relative guardianship assistance payments and/or provide Medicaid or medical assistance following the appointment of the relative guardian by the probate court or the approval of an allocation of parental responsibilities (APR) by a juvenile or district court and continue the assistance until the youth has reached eighteen (18) years of age.
  2. The determination for expiration of the agreement must be made and documented in the original negotiation and noted in the original documents for the relative guardianship assistance agreement.
  3. The county department must determine that in each case a reasonable, but unsuccessful, effort to place the youth or child for adoption has been made before negotiating relative guardianship assistance, unless the best interests of the youth or child would not be served by such an effort.
  4. The county department may not use an income eligibility requirement (income means test) for the prospective relative guardian in determining eligibility for relative guardianship assistance.
  5. The relative guardianship assistance agreement that is negotiated shall be based on the needs of the youth or child and the relative guardian's circumstances.
  6. Public community-based programs or services that the youth or child is eligible for shall be accessed first to address the needs of the youth or child before a relative guardianship assistance agreement is negotiated.
  7. The county department may authorize the following types of relative guardianship assistance agreements:
    - a. A "long-term relative guardianship assistance agreement" is intended to partially meet the daily needs of a youth or child indefinitely. A long-term agreement is made when the relative guardian's financial situation is a barrier to achievement of relative guardianship and where it is unlikely to change. It may also occur when the needs of the youth or child creates an excessive hardship on the relative guardian's financial and emotional resources. This type of monthly payment may continue until the circumstances change for the youth, child or the relative guardian, or the agreement terminates as outlined in the relative guardianship assistance agreement.
    - b. A "time-limited relative guardianship assistance agreement" is intended to partially meet the daily needs of the youth or child for a specified period. Funds may be used for start-up costs for items that the youth or child placed in relative guardianship may not have, such as sufficient clothing. The agreement partially covers unmet needs that are time-limited and non-renewable.

- c. A “core” relative guardianship assistance agreement (Title IV-E only) means there is a minimum monthly assistance payment of at least ten dollars (\$10) and Medicaid provided. County departments shall document any specific needs that may occur in the future for the youth or child in the services record and in the State Department’s automated system. The agreement identifies a potential need for increased financial relative guardianship assistance that may be activated at a future time.
    - d. A “dormant relative guardianship assistance agreement” (non-Title IV-E only) means there is no relative assistance payment provided. County departments shall document any specific needs that may occur in the future for the youth or child in the services record and in the State automated system. The agreement identifies a potential need for financial relative guardianship assistance that may be activated at a future time. Medicaid benefits may be accessed (refer to Section 7.311.62, B).
  - 8. If the youth or child is reunited with the parent(s), previous legal custodian, or is adopted, eligibility for relative guardianship assistance is terminated.
  - 9. A relative guardian who meets the criteria for relative guardianship assistance are eligible for non-recurring relative guardianship assistance expenses.
  - 10. The contact requirements in Section 7.001.6 shall be met prior to court appointment of relative guardianship. The contacts shall be documented in the State Department’s automated system.
  - 11. Case services payments may be part of the relative guardianship assistance agreement; these payments may be made directly to the providers of service or to the appointed relative guardian.
- C. Applicable Groups for Relative Guardianship Assistance
  - 1. Youth or children who are in the custody of the county department.
  - 2. The county department requesting the assistance agreement is financially responsible for the care of the youth or child.
- D. County Department Requirements for Relative Guardianship Assistance
  - 1. While the Relative Guardianship Assistance agreement is in effect, a combined record for each youth or child and the relative guardian shall be maintained.

A combined record shall contain documentation about each youth or child and the relative guardian, which is relevant to the guardianship assistance agreement including, but not limited to, application, Structured Analysis Family Evaluation (SAFE) home study and applicable update(s) related to the relative guardianship, medical records, placement history, specific needs requiring purchase of services, confirmation of second opinions of professionals outside of the county department (licensed social worker, doctor, psychologist, or mental health specialist), annual school reports, and other applicable reports or evaluations.
  - 2. The county department shall prepare the documentation necessary for the youth or child for relative guardianship assistance on the State Department’s prescribed form no later than one calendar month prior to the court appointment of the relative guardianship.

3. The county department shall review the information on the State Department's prescribed form with the relative kinship guardian. All parties shall date, sign, and initial the document before the court appoints the relative guardian.
4. The county department shall enter the legal relative guardianship information for each youth or child into the State Department's automated system within thirty (30) calendar days following the date that the court appoints the relative guardian. The eligibility determination shall be completed in the Title IV-E module within forty-five (45) calendar days following the date that the court appoints the relative guardian.

**7.311.51 Provision of Services [Eff. 2/1/10]**

Following the court appointment of the relative guardianship, the county department shall provide services to the youth or child and the relative guardian family as addressed in the guardianship assistance agreement to assure stability of permanency. This does not preclude providing additional services based on current or temporary circumstances including, but not limited to, core services.

**7.311.6 RELATIVE GUARDIANSHIP ASSISTANCE AGREEMENT SERVICES [Rev. eff. 12/1/12]**

- A. The county department may make relative guardianship assistance payments and/or provide Medicaid or medical assistance at the time the relative guardianship is appointed by the court and continue the payments until the youth reaches the age of eighteen (18).
- B. The expiration of the agreement must be determined and documented in the original negotiation and noted in the original paperwork for the relative guardianship assistance agreement.
- C. The county department shall not use an income eligibility requirement (income means test) for the prospective relative guardian in determining eligibility for relative guardianship assistance.
- D. The relative guardianship assistance agreement shall be negotiated in good faith and based upon the needs of the youth or child and circumstances of the relative guardian.
- E. Public community-based programs or services that the youth or child is eligible for shall be accessed first to address the needs of the youth or child before a relative guardianship assistance agreement is negotiated.
- F. If the youth or child is reunited with the birth parent(s) or legal custodians, the youth or child is not eligible for relative guardianship assistance.
- G. Relative guardians of youth or children who meet the criteria for relative guardianship assistance are eligible for non-recurring relative guardianship expenses.
- H. Relative guardianship assistance services may be provided for youth and children who meet the requirements, and:
  1. The payment may not exceed the foster care reimbursement.
  2. A binding relative Guardianship Assistance Agreement shall be negotiated and a copy provided to the relative guardian.
  3. The relative guardian may renegotiate the agreement if the needs of the youth or child, or the circumstances of the relative guardian, change.
- I. The amount of the assistance agreement and the manner that the payments will be provided shall be documented on the State prescribed forms.

**7.311.61 Title IV-E Relative Guardianship Assistance [Rev. eff. 11/1/15]**

- A. When a successor guardian is not identified in the original assistance agreement (or in an addendum to the assistance agreement dated prior to incapacitation or death of the relative guardian) and the relative guardianship is removed or an allocation of parental responsibilities is modified, the youth or child and the subsequent relative guardian must meet all Relative Guardianship Assistance Program eligibility requirements, including:
  - 1. A new determination regarding the continuing needs of the youth or child;
  - 2. Completion of a new relative guardianship assistance agreement with the new relative guardian; and/or,
  - 3. If the previous relative guardian is deceased, a copy of the death certificate must be provided.
- B. After a youth or child has been determined eligible for Title IV-E relative guardianship assistance payments and/or Title IV-E Medicaid benefits, Title IV-E eligibility continues while there is a relative guardianship assistance agreement in effect:
  - 1. Eligibility continues as long as the youth or child meets the requirements regardless of the relative guardian's state of residence.
  - 2. Title IV-E relative guardianship assistance benefits and/or Title IV-E Medicaid benefits must continue until the expiration of the original agreement unless all parties to the agreement are in concurrence. This includes, but is not limited to, a situation where the relative guardian fails to complete and return paperwork related to the three-year review of the assistance agreement.
  - 3. If the previous relative guardian is deceased, a copy of the death certificate must be provided.
- C. Eligibility Determination for Medicaid in Title IV-E Relative Guardianship Assistance
  - 1. A youth or child who is eligible to receive a Title IV-E payment is categorically eligible for Medicaid. A relative guardianship assistance payment is required to extend Medicaid coverage.
  - 2. Medicaid eligibility shall continue for Title IV-E eligible youth and children who are out of the home for more than thirty calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Department's prescribed form (see county responsibility, Section 7.402.2).
  - 3. Medicaid eligibility for the youth or child shall be re-determined annually only if the youth or child continues to be eligible for Medicaid. Complete the State Department's prescribed form or a form letter stating that the youth or child continues to be eligible for Medicaid. This document shall be sent to other states by the county department to ensure continuation of Medicaid for a youth or child who is residing out of state.

**7.311.62 State-County Relative Guardianship Assistance (Non-Title IV-E) [Rev. eff. 11/1/15]**

- A. Non-Title IV-E relative guardianship assistance services may be provided to a youth or child who does not meet eligibility criteria as determined in the Title IV-E module, and:
  - 1. The youth or child was not Title IV-E eligible in foster care.



2. The youth or child was placed in foster care with the county department through a court order or a voluntary placement agreement with the county; and,
  - a. There was no subsequent petition with the court and a court order within 180 days of living with the specified relative that includes “best interest” or “contrary to the welfare language; or,
  - b. There was no foster care payment made while in care under the voluntary placement agreement.
- B. Medicaid Eligibility Determination for Non-Title IV-E Relative Guardianship Assistance
  1. Youth and children who are eligible for a relative guardianship assistance agreement, but are not Title IV-E eligible may be eligible for:
    - a. Medicaid through other categories of assistance; and/or,
    - b. Temporary Assistance for Needy Families (TANF).
  2. Medicaid eligibility may be continued when the youth or child is in out-of-home care for thirty (30) calendar days, depending on the county department’s policy.
  3. Medicaid eligibility shall be redetermined annually only when the youth or child continues to be eligible for Medicaid. This shall be completed on the State Department’s prescribed form.
- C. When a successor guardian is not identified in the original assistance agreement (or in an addendum to the assistance agreement dated prior to incapacitation or death of the relative guardian) and the relative guardianship is removed or an allocation of parental responsibilities is modified, the youth or child and the subsequent relative guardian must meet all Relative Guardianship Assistance Program eligibility requirements, including:
  1. A new determination regarding the continuing needs of the youth or child; and,
  2. Completion of a new relative guardianship assistance agreement with the new relative guardian; and/or,
  3. If the previous relative guardian is deceased, a copy of the death certificate must be provided.

**7.311.63 Negotiation of Relative Guardianship Assistance Agreements [Rev. eff. 12/1/12]**

- A. The county department shall:
  1. Establish a policy regarding the criteria used for calculating the relative guardianship assistance agreements. The agreements shall be established in accordance with the written policy.
  2. Determine specific needs of the youth or child and eligibility for relative guardianship assistance.
  3. Utilize financial information regarding the relative guardian’s family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in relative guardianship assistance.

4. Not include a statement in the relative guardianship assistance agreement that Title IV-E relative guardianship assistance payments and/or services are subject to the appropriation of state funds.
5. Make a good faith effort to negotiate a relative guardianship assistance agreement with the relative guardian and base the negotiation on the needs of the youth and child and the circumstances of the relative guardian. If the parties cannot agree, the county department shall establish the amount. If the relative disagrees with the decision, a fair hearing may be requested.
6. Negotiate with the relative guardian the amount that is needed by the relative guardian to meet the needs of the youth or child. This may be less than the amount for which the youth or child qualifies.
7. Establish a maximum rate that may be provided to a relative guardian; the rate cannot exceed the current foster care maintenance rate that was reimbursed for the out-of-home care of the youth, or that would have been reimbursed if the youth or child was currently in out-of-home care. The monthly respite care payment that is provided in the foster care rate is not a benefit under the relative guardianship assistance program.
8. Identify additional services and assistance that the youth or child will be eligible for and the procedures for applying for the services.
9. Use the State Department's prescribed forms to document the negotiated agreement for Title IV-E or non-Title IV-E relative guardianship assistance, and attach supporting documentation.
10. Complete and sign the relative guardianship assistance agreement form specifying:
  - a. The dollar amount of the relative guardianship assistance being provided, if applicable.
  - b. The duration dates of the agreement:
    - 1) Until the youth or child in relative guardianship reaches the age of eighteen (18) years, or,
    - 2) On a case-by-case basis, the duration of the agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.
  - c. The services and dates of services that are covered by the relative guardianship assistance agreement.
  - d. The relative guardianship assistance agreement must be signed and dated by all parties prior to the effective date of the agreement, which is the date that the court appoints relative guardianship. If the county department fails to completely execute the relative guardianship assistance agreement prior to the date the relative guardianship is appointed, the assistance payment will become non-reimbursable by the state and Title IV-E funds.
11. Review the agreement every three (3) years from the date of the initial agreement.

- a. Any change in the relative guardianship assistance agreement shall be related to the original needs, identified at the time the decision was made that relative guardianship assistance was needed.
- b. A Title IV-E relative guardianship assistance agreement shall not be changed without the concurrence of all parties. The only exception is if there is a reduction or increase in the foster care maintenance payment rate. In that circumstance the state may adjust the relative guardianship assistance payment without the relative guardian's agreement.
- c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy.

The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth Corrections for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.

- d. After the court appoints the relative guardianship, the county department shall not include additional needs for the relative guardianship assistance payment that are not directly related to the original identified needs of the youth or child, or unless the needs are based on a genetic relationship to the original needs.
  - e. The county department or a relative guardian may renegotiate an existing relative guardianship assistance agreement if the needs of the youth or child change and the information is related to the original needs that were identified or the family's circumstances.
12. For Title IV-E relative guardianship assistance agreements, there are situations after the relative guardianship appointment by the court where the guardian can request a state level fair hearing before an Administrative Law Judge (ALJ) concerning the eligibility of the youth or child or relative guardianship assistance benefits or the amount of those benefits. The situations include, but are not limited to:
- a. Relevant facts regarding the youth or child that were known and not presented to the relative guardians prior to the court appointment of relative guardianship.
  - b. Denial of assistance based upon a means test of the relative guardian.
  - c. Guardians' belief that an erroneous determination was made finding a youth or child ineligible for relative guardianship assistance.
  - d. Denial of a request for a change in assistance payment rate due to a change in circumstances for the relative guardian.
  - e. Decrease in the amount of relative guardianship assistance without the agreement of the relative guardian except as previously noted in Section 7.311.63, A, 11, b.

**7.311.64 Successor Guardian [Eff. 11/1/15]**

- A. A successor guardian may be identified in the original Relative Guardianship Assistance Agreement or in an addendum to the assistance agreement dated prior to incapacitation or death of the relative guardian for continuity of relationship and permanency, and to prevent re-entry into foster care for a youth or child, due to incapacitation or death of the original guardian.
1. Incapacitation means the relative guardian is substantially unable to perform the duties of a legal guardian for the youth or child(ren) named in the Relative Guardianship Assistance Agreement. Substantial inability to provide care may be due to a physically debilitating illness, disease, or injury; or a mental impairment resulting in substantial inability to understand the nature and consequences of decisions concerning the care of the youth or child.
  2. The eligibility of a successor guardian at the time of incapacitation or death requires all of the following conditions:
    - a. The successor guardian must meet requirements applicable to foster care providers for fingerprint-based criminal background checks through the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) at the time of incapacitation or death;
    - b. All other adults residing in the home must meet requirements applicable to foster care providers for fingerprint-based criminal background checks through CBI and FBI at the time of incapacitation or death;
    - c. The successor guardian and all adults (eighteen years and older) residing in the home are not registered sex offenders;
    - d. The successor guardian has knowledge about the needs of the youth or child in the relative guardianship assistance agreement; and,
    - e. The successor guardian is committed to raise the youth or child.
  3. Responsibilities of a successor guardian at the time of incapacitation or death of the original guardian and following appointment of guardianship include the following:

The successor guardian must:

    - a. Notify the county department with financial responsibility for the Relative Guardianship Assistance Agreement about the incapacitation or death of the original guardian;
    - b. Submit completed documentation of fingerprint-based CBI and FBI results;
    - c. Identify all adults living in the home and their dates of residences for the preceding five (5) years;
    - d. Petition the probate court for guardianship or petition the juvenile or district court with jurisdiction for an allocation of parent responsibilities of the youth or child as soon as possible;

- e. Collaborate with the county department with financial responsibility to complete a Relative Guardianship Assistance Agreement commensurate with the current agreement and based upon the needs of the youth or child and the circumstances of the successor guardian;
  - f. Notify the county department of any significant changes that affect the terms of the assistance agreement;
  - g. Submit required reports to the court; and,
  - h. Provide annual verification of school attendance for the child(ren) or youth included in the assistance agreement.
4. Responsibilities of the county department include the following:
- a. Upon notification of the incapacitation or death of a relative guardian, the county department shall suspend relative guardianship assistance payments and services identified in the original assistance agreement effective the date of incapacitation or death, until the successor guardian has attained guardianship of the youth or child through the probate court or an allocation of parental responsibilities through the juvenile or district court.
  - b. The county department shall review the current CBI and FBI fingerprint-based history provided by the successor guardian and for all adults (eighteen years and older residing in the home).
  - c. The county department shall request and review child abuse/neglect records in each state where the successor guardian and all adults (eighteen years and older) living in the home have resided in the five (5) years preceding the date of notification of incapacitation or death of the original guardian.
  - d. The county department shall complete national and CBI sex offender registry checks using the state prescribed procedures for the successor guardian and all adults (eighteen years and older) living in the home.
  - e. Upon determination that the prospective successor guardian meets requirements, the county department shall collaborate to provide commensurate assistance and services identified in the original Relative Guardianship Assistance Agreement and based upon the needs of the youth or child and the circumstances of the successor guardian.
  - f. The assistance agreement shall be signed by all appropriate parties prior to the date the court awards guardianship. The relative guardianship assistance is effective the date of guardianship.

**7.311.7 MEDICAL PAYMENTS IN RELATIVE GUARDIANSHIP ASSISTANCE AGREEMENTS**  
**[Rev. eff. 12/1/12]**

- A. Medical payments in relative guardianship assistance agreements may be used to supplement any other available resource such as a relative guardian's private insurance that pays part but not all of the treatment (physical, mental, and emotional) for the youth or child.
  - 1. Payments are made directly to relative guardians for a service already received or to a vendor for the treatment of physical, developmental disabilities, or an emotional disturbance.

2. Shall relate directly to the barrier(s) identified at the time the initial agreement is approved.
- B. The payments are not available for treatment of any physical, developmental disability, or emotional disturbance diagnosed after the court appointment of the relative guardianship.
- C. The payments may only be used for Medicaid cases if the service requested is a service that is not covered under the state Medicaid plan and relates to a need identified at the time the youth or child is placed in relative guardianship.
- D. The payments for medical services shall reflect the reasonable costs of those services in the community where the youth or child resides.

**7.311.71 Reimbursable and Non-Reimbursable Relative Guardianship Assistance Case Services [Rev. eff. 12/1/12]**

Case services are a type of purchased program services that support a case plan for youth and children in relative guardianship assistance.

Case services are provided to meet the special needs of a youth or child that were identified when the youth or child is placed into a relative guardianship and which are not covered by the relative guardianship assistance or Medicaid assistance agreements.

For eligibility for case services in a relative guardianship assistance agreement, the State Department's prescribed form outlining the agreement must be in place and the case open in the State Department's automated system as relative guardianship assistance case.

**A. Medical**

1. Orthodontia
  - a. Cosmetic reasons - not reimbursable.
  - b. Special needs directly related to the reason for which the youth or child was classified as special needs, e.g. cleft palate or injury related to an abuse will be reimbursable.
2. Eye Glasses
  - a. Eyeglasses are not reimbursable using case services funds because Medicaid pays for one (1) pair of glasses per year.
  - b. Payment for additional eye glasses during the year or contacts related to the special needs of the youth or child that were identified at the time of the initial relative guardianship assistance agreement are reimbursable.
3. Medication
  - a. Routine medication that is not related to the special needs of the youth or child - not reimbursable.
  - b. If related to the special needs of a youth or child - reimbursable. The medication must be prescribed by a licensed physician and related to the special need identified at the time the youth or child was approved for relative guardianship assistance.

4. Special Therapies - Speech, Occupational, and Physical

- a. If not available through other community and family resources - reimbursable. Youth and school-age children should receive these services through the education system.
- b. When these services are available in hospitals and clinics – not reimbursable because Medicaid covers these costs.

5. Special Medical Equipment

Special medical needs/equipment prescribed by a physician may be reimbursable. For a youth or child who is severely physically challenged; special exceptions should not exceed two thousand dollars (\$2,000) without a supervisor's written authorization.

B. Psychological Services

- 1. Time-limited out-patient therapy for a youth or child living in a state that does not accept Medicaid for this service - reimbursable if related to the special needs of the youth or child and a written plan is obtained from the service provider which contains:
  - a. Diagnosis.
  - b. Prognosis.
  - c. Length of service.
  - d. Individuals who will be seen during the therapy.
  - e. A cap on the amount of money to be spent for the psychological exam or therapy.
  - f. Frequency of contact (i.e., once a week, twice a month, etc.).
  - g. Type of therapy being provided (i.e., individual, group, family, etc.).
- 2. If time-limited out-patient therapy is available using Medicaid – not reimbursable.
- 3. Day treatment - not reimbursable because Medicaid provides for this service.
- 4. Residential child care facility - not reimbursable because Medicaid provides for this service.
- 5. In-patient psychiatric hospitalization - not reimbursable because Medicaid provides this service. (Children who are Medicaid eligible may receive some in-patient psychiatric services under the Medicaid program.)

C. Education Costs

- 1. Tutoring - not reimbursable. Education systems are required to provide all youth and children with special needs a free appropriate public education.

2. School tuition - not reimbursable. There will be no reimbursement for tuition expenses through the relative guardianship assistance program. If the relative guardian chooses the youth or child to remain in a current private school placement, this is an expense for which the relative guardian is responsible.
- D. Respite and Day Care
1. Respite care - reimbursable.
  2. Day care - not reimbursable.
- E. Other Relative Guardianship Assistance Case Services
- Relative guardianship assistance case services for youth and children who are Title IV-E or non-Title IV-E may be provided for a specified time to provide needed services. It is required that these time-limited services/funds are clearly provided on a case-by-case basis. This requirement must be clearly documented in the agreement.
- F. To be eligible for case services in a relative guardianship, the State Department's prescribed form outlining the agreement must be in place and the case opened in the State Department's automated system as a relative guardianship assistance case following the court appointment of relative guardianship.

**7.311.72 Non-Recurring Relative Guardianship Expenses [Rev. eff. 12/1/12]**

- A. The relative guardian shall be reimbursed for the total costs of non-recurring expenses associated with obtaining relative guardianship, not to exceed two thousand dollars (\$2,000) per youth or child in order to facilitate achievement of the guardianship for:
1. Legal fees,
  2. Fees for relative guardianship, or
  3. Other expenses related to the relative guardianship of the youth or child, such as the cost of the SAFE home study and a SAFE update related to the prospective relative guardianship completed by the county department.
- B. The county department shall determine if the reimbursements requested by the prospective relative guardian are non-recurring expenses.
- C. Documentation for non-recurring relative guardianship expenses:
1. The county department shall use the State Department's prescribed form prior to the court appointing the relative guardianship.
  2. The prospective relative guardian shall provide evidence of the needs of the youth or child.
  3. Provide an itemized statement of the expenses to be reimbursed within one (1) year from the date of the probate court appointment of the relative guardianship or the date that the juvenile or district court approved an allocation of parental responsibilities.



**7.311.8 ACCEPTING AND PROCESSING APPLICATIONS FOR RELATIVE GUARDIANSHIP ASSISTANCE FROM KINSHIP FOSTER CARE PARENTS WHO ARE CERTIFIED BY CHILD PLACEMENT AGENCIES [Rev. eff. 1/1/16]**

- A. Colorado licensed child placement agencies may certify kinship foster care homes only upon written request from the county department of human or social services with responsibility for the care and custody of the youth or child.
- B. The county department will use the same procedures for all prospective relative guardians.
- C. The child placement agency that certified the prospective relative guardian retains responsibility for services to the relative guardian prior to the court appointment of the relative guardianship.

**7.311.81 Review of Eligibility for All Ongoing Relative Guardianship Assistance Agreements [Rev. eff. 12/1/12]**

- A. The county department shall initiate the written notice of the review for relative guardianship assistance sixty (60) days prior to the three (3) year anniversary of the agreement.
- B. The relative guardian may request a review of the agreement prior to the three-year review if changes in the needs of the child or family circumstances occur.
- C. Any changes in the needs of the youth or child shall relate to the original barrier(s), identified at the time the decision was made that relative guardianship assistance was needed. The county department shall not include additional needs for relative guardianship assistance payments after the court appointment of the guardianship unless genetic in nature.
- D. The county department shall review school attendance annually.

Relative guardianship assistance files must contain documentation of school attendance or reasons for the inability to attend. Documentation must be updated annually to assure that each youth and child who is eligible for relative guardianship assistance and who has attained the minimum age for compulsory school attendance is:

- 1. Enrolled (or in the process of enrolling) an elementary or secondary education institution,
- 2. Instructed in elementary or secondary education at home in accordance with the home school statute,
- 3. In an independent study elementary or secondary education program in accordance with statute, and which is administered by the local school, school district, or Board of Cooperative Education (BOCES), or
- 4. Incapable of attending school on a full-time basis due to the medical condition of the youth or child. The reasons shall be supported by regularly updated information in the educational plan maintained by the school, school district, or BOCES.

**7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth Corrections [Rev. eff. 12/1/12]**

- A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2).

- B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth Corrections.
- C. When non-Title IV-E eligible youth or child resides outside of Colorado with the relative guardian who has a relative guardianship assistance agreement and the youth or child is in out-of-home placement longer than thirty (30) calendar days, the relative guardianship assistance payment and relative guardianship case services shall be discontinued. A state/county non-Title IV-E agreement may only be resumed when the youth or child is returned home and the out-of-home placement has been discontinued on the State Department's automated system.

**7.311.9           TERMINATION OF RELATIVE GUARDIANSHIP ASSISTANCE AGREEMENTS [Eff. 2/1/10]**

The county department shall terminate relative guardianship assistance agreements when the:

- a. Relative guardian requests that payments end; or,
- B. Youth reaches age eighteen (18); or,
- C. The county department determines the relative guardian is no longer legally responsible for the support of the youth or child; or,
- D. Youth or child is no longer receiving any support from the relative guardian; or,
- E. County of responsibility verifies the death or marriage of a youth or child.

**7.311.91           Reinstatement [Rev. eff. 11/1/10]**

- A. Reinstatement of the original relative guardianship assistance agreement is prohibited when the relative guardian who was appointed by the court no longer has guardianship of the youth or child.
- B. Reinstatement of payments related to the needs of a youth or child that were identified at the time of the original Relative Guardianship Assistance Agreement is allowed for a:
  - 1. Youth or child that is non-Title IV-E eligible.
  - 2. Youth or child that is Title IV-E eligible.

**7.311.92           Right to Appeal [Rev. eff. 12/1/12]**

- A. If the county department denies an application for relative guardianship assistance, or reduces or terminates the assistance payment, the applicant or recipient has the right to appeal. Using procedures outlined in Section 3.850 (9 CCR 2503-1).
- B. When a family who has been denied Title IV-E relative guardianship assistance requests a state level fair hearing, it is the responsibility of the Administrative Law Judge to determine whether the applicant or recipient was wrongly denied eligibility or whether the amount of the relative guardianship assistance agreement was determined correctly (see Section 7.306.41, E).

- C. The relative guardian has the burden of proving extenuating circumstances and relative guardianship assistance eligibility at a state level fair hearing. The state and/or its designee can provide factual information to assist the family in establishing eligibility for Title IV-E relative guardianship assistance.
- D. When either state or federal law requires or results in a reduction or deletion of services, a hearing shall not be granted.

**7.311.93 State Monitoring/Progressive Discipline Process of Relative Guardianship Assistance Programs in County Departments [Eff. 2/1/10]**

- A. Monitoring shall be conducted annually with county departments by the State Department using a risk-based approach by reviewing the number and nature of complaints received from consumers, advocates, or the general public.
- B. The department will conduct monitoring in the same manner contained in Section 7.306.43.

---

**Editor's Notes**

**History**

Section 7.304.21-D.2.f.4 emer. rule eff. 08/03/2007.

Section 7.301.1-22, 7.301.231 eff. 09/01/2007.

Section 7.304.21 eff. 10/30/2007.

Section 7.301.1 emer. rule eff. 08/01/2008.

Section 7.301.1 eff. 10/01/2008.

Section 7.304.64 eff. 11/01/2008.

Section 7.304.62 eff. 01/01/2009.

Sections 7.306.11-7.306.14, 7.306.2, 7.306.22-7.306.31, 7.306.34, 7.306.4-7.306.6 eff. 02/01/2009.

Sections 7.302, 7.302.2; Repeal Sections 7.302.7-7.302.32 eff. 04/01/2009.

Sections 7.305; 7.305.1; 7.305.5 eff. 05/01/2009.

Section 7.304.52 emer. rule eff. 08/07/2009.

Section 7.304.52 eff. 11/01/2009.

Section 7.306.35 emer. rule eff. 11/06/2009.

Sections 7.301.24, 7.301.241-7.301.242, 7.304.21(D), 7.304.52 (C)(D), 7.304.54(P), 7.304.55(F), 7.304.74(D), 7.305.2-7.305.42, 7.306.35, 7.306.41(A)(B7-D), 7.306.53, 7.306.56-7.306.57, 7.311 eff. 02/01/2010.

Sections 7.304.54(A-F); 7.304.62(G-H, N); 7.304.65; 7.306.21(E) eff. 07/01/2010.

Sections 7.311.1, 7.311.2, 7.311.5(B7-D5), 7.311.6(H)-7.311.61, 7.311.72, 7.311.82, 7.311.91 emer. rule eff. 08/06/2010.

Sections 7.301.24, 7.305.3-7.305.34, 7.305.42 emer. rule eff. 10/01/2010.

Sections 7.301.24, 7.305.3-7.305.34, 7.305.42, 7.311.1, 7.311.2, 7.311.5(B7-D5), 7.311.6(H)-7.311.61, 7.311.72, 7.311.82, 7.311.91 eff. 11/01/2010.

Sections 7.304.4, 7.304.53, 7.306.11, 7.306.15, 7.306.16 eff. 03/02/2011.

Sections 7.305.2.E, 7.305.5 eff. 08/01/2011.

Sections 7.301.242, 7.302, 7.302.2, 7.303.17, 7.304.21, 7.304.661, 7.304.73-.74, 7.305.1, 7.305.4, 7.305.42, 7.307.1, 7.307.52, 7.307.6, 7.307.61-.64, 7.310.6, 7.311.5, 7.311.61-.62 eff. 04/01/2012.

Sections 7.300.1, 7.304.52 eff. 05/01/2012.

Sections 7.304.62.L-P, 7.305.2.E-F, 7.305.4, 7.305.42.A-B eff. 07/01/2012.

Sections 7.305.4-7.305.4.C, 7.311-7.311.1, 7.311.5, 7.311.6-7.311.63, 7.311.7-7.311.72, 7.311.81-82, 7.311.92 emer. rule eff. 09/07/2012.

Sections 7.301.24.Q.1, 7.305.4-7.305.4.C, 7.306.4, 7.306.41.B.7-8, 7.311-7.311.1, 7.311.5, 7.311.6-7.311.63, 7.311.7-7.311.72, 7.311.81-82, 7.311.92 eff. 12/01/2012.

Section 7.304.4.H eff. 04/01/2013.

Section 7.307.6 eff. 10/01/2013.

Sections 7.303.11-7.303.13 eff. 01/01/2014.

Sections 7.301.22, 7.305.2, 7.305.2.E eff. 07/01/2014.

Sections 7.301.1-7.301.21, 7.301.231, 7.303-7.303.1 eff. 01/01/2015.

Sections 7.301.24, 7.303.3 eff. 08/01/2015.

Sections 7.301.21, 7.301.24, 7.301.24.K-N.1, 7.303.4, 7.304.21, 7.304.21.D-D.2, 7.304.52, 7.304.54, 7.304.54.I-Q, 7.304.61, 7.304.61.G, 7.304.62, 7.304.62.P-Q, 7.305.1-7.305.3, 7.305.33, 7.305.4, 7.305.41, 7.305.41.F, 7.305.42-.43, 7.305.5.A, 7.311.61-.62, 7.311.64 eff. 11/01/2015.

Sections 7.304.1, 7.304.21, 7.304.52, 7.304.53, 7.304.61, 7.304.62, 7.304.74, 7.306.14, 7.311.1, 7.311.2, 7.311.21, 7.311.8 eff. 01/01/2016.

Sections 7.301.24, 7.304.54 eff. 03/01/2016.

Sections 7.303.4, 7.304.52.C.3-4, 7.311.1, 7.311.5.B.1, 7.311.61.A, 7.311.61.B.3, 7.311.62.C, 7.311.64.A, 7.311.72.C.3 eff. 10/01/2016.

Section 7.304.21 eff. 01/01/2017.

Sections 7.300.1, 7.301.2, 7.301.21, 7.301.23, 7.301.24, 7.301.241, 7.301.242 eff. 02/01/2017.

Sections 7.304.53 A.1, 7.309 eff. 07/01/2017.

### **Annotations**

Rule 7.306.35 (adopted 12/04/2009) was not extended by Senate Bill 11-078 and therefore expired 05/15/2011.