| DCF | COMMONWEALTH OF MASSACHUSETTS ~ DEPARTMENT OF CHILDREN AND FAMILIES | |
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| | **Policy Name: Adoption Subsidy Policy** | |
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# ADOPTION SUBSIDY POLICY

The Department of Children and Families provides 2 programs of adoption subsidy to certain adopting parents to facilitate the adoption of children with special needs who would not otherwise receive an appropriate adoptive placement (see *Regulations* 110 CMR 7.209 *et seq.*): (1) federally supported adoption subsidy governed by the provisions of Title IV-E of the Social Security Act, 42 USC § 673 (hereinafter referred to as "Title IV-E adoption subsidy"), and (2) state funded adoption subsidy created pursuant to MGL c. 18B, § 21 (hereinafter referred to as "state adoption subsidy").

## i. DEFINITIONS

**Applicable Child:** A child who meets the applicable age requirements of 42 USC § 673(e) or a child who has been in foster/pre-adoptive care for at least 60 consecutive months prior to the adoption. *NOTE: Beginning with Federal Fiscal Year (FFY) 2010, certain eligibility criteria have been changed based on the age of the child in the FFY in which the child is adopted. The age requirement decreases by two years each fiscal year beginning with 16 in FFY 2010 and ending for all children in FFY 2018.*

**Child with Special Needs:** A child whom the Department determines meets the following criteria, specified in *Regulation* 110 CMR 7.209(1):

1. The child cannot or should not be returned to the home of her/his parents. Evidence that the child is legally free for adoption meets this criterion.
2. At least one of the following circumstances applies:
   a) The child has one or more special needs as a result of a mental, emotional or physical impairment, behavioral disorder, or medical condition that has been diagnosed by a licensed professional qualified to make the diagnosis.
   b) The child is difficult to place for one or more of the following reasons:
      i. The child is a member of a sibling group of 2 to be adopted together and one of the children is age 8 or older; or
      ii. The child is a member of a sibling group of 3 or more to be adopted by the same family (the siblings need not be adopted at the same time);
   c) The child's birth and/or family history places the child at risk of having special needs but, due to the child's age, a reliable diagnosis cannot be made.
3. Reasonable efforts have been made to place the child for adoption in the most appropriate home without providing adoption subsidy. The requirement to make such efforts may be waived for any child whose best interests would not be served by a new placement because the child has developed significant emotional or psychological ties with the pre-adoptive parent(s) while in the care of such parent(s), and the pre-adoptive parent(s) cannot adopt the child without adoption subsidy.

**Familynet**: Is the name given to the Department's State Automated Child Welfare Information System (SACWIS). As of the writing of this policy Familynet modules are being converted to a web-based system called i-Familynet. For the purpose of this policy Familynet will mean the Department's SCWIS system, regardless of name.

**Non-Applicable Child**: A child who does not meet the definition of applicable child as set forth above.

**Sibling:** One of 2 or more persons having at least one parent in common by blood, marriage or adoption; full, half, step or adoptive brother or sister.

# I. POLICY: TITLE IV-E and STATE ADOPTION SUBSIDY

Adoption subsidy assistance is based solely on the needs of the child and is provided without regard to the income of the family. Adoption subsidy consists of financial assistance and/or medical assistance after the legalization of the adoption of a child with special needs by certain adopting parents.

Financial assistance is intended to aid in the general support of the child with special needs and is paid directly to the adoptive parent(s). Medical assistance (through the Division of Medical Assistance) is intended to supplement family health insurance plans for the child with special needs and is paid directly to the vendor according to the Division of Medical Assistance fee schedule. Absent extraordinary circumstances, financial assistance and/or medical assistance does not supercede third-party payments available from other federal, state or private programs or insurance plans, and does not exceed payments currently authorized for the child in family foster care.

## 1. Eligibility

**A. Federally Supported Adoption Subsidy Eligibility Criteria (Title IV-E)** [See, *Regulations* 110 CMR 7.209(2)]. To be eligible for a federally supported adoption subsidy under Title IV-E of the Social Security Act a child must meet the eligibility criteria for all children and be determined to be

- an applicable child,
- a non-applicable child or
- a sibling of an applicable child.

### 1. All Children (Applicable and Non-Applicable)

All children must meet the following eligibility criteria as well as the criteria in Section 1.A.2 for Non-Applicable children or Section 1.A.3 for Applicable children.

a. The child is a child with special needs as defined in *Regulations* 110 CMR 7.209(2); and
b. The child is in substitute care and in the custody of the Department or the child is in the custody of a private non-profit licensed placement agency, as defined in MGL c. 15D, § 1, which has placed the child for adoption; and
c. Adoption is the plan for the child; and
d. The child resides in a pre-adoptive home which has been
    - licensed in accordance with *Policy #2006-01*, Family Resource Policy, or
    - licensed by a private non-profit licensed placement agency, or
    - licensed by an comparable licensing agent under the Interstate Compact on the Placement of Children; and
e. For homes licensed on or after October 1. 2008, the pre-adoptive parents completed a nationwide, fingerprint based criminal offender record check and have not been convicted of a felony for child abuse or neglect, spousal abuse, a crime against a child or a crime involving violence, such as rape, sexual assault or homicide, but not including simple assault and battery; or a felony committed in the prior 5 years for physical assault, battery or a drug or alcohol related offense; and
f. A child abuse and neglect registry check was completed on all household members 18 and older in the pre-adoptive home in each state or jurisdiction in which the household member has resided during the previous 5 years; and
g. The child is a U.S. citizen or a qualified alien within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

### 2. Non-Applicable Children

A. *Non-Applicable Children in Department Care or Custody*: If the child is in substitute care and in the custody of the Department, one of the following is established:

1) The child would have been eligible for Aid to Families with Dependent Children (AFDC) under the standard in effect on July 16, 1996 during (1) the month in which a voluntary placement agreement was signed removing the child from the home, or (2) the month in which court proceedings were initiated that resulted in the child being removed from the home; and

    i. If the child is removed from the home pursuant to a Voluntary Placement Agreement, at least one Title IV-E foster care payment must have been made; or

    ii. If the child is removed from the home through court custody, there must have been a judicial determination to the effect that to remain in the home would be contrary to the child's welfare and;

        i. For children removed prior to January 23, 2001 the contrary to the child's welfare determination must have occurred prior to the month in which the adoption petition is filed; or

        ii. For children removed on or after January 23, 2001, the contrary to the child's welfare determination must be in the first court order removing the child from the home; or

2) The child is placed with the department pursuant to a Voluntary Adoption Surrender and within six months of placement the department files a petition for custody and obtains a judicial determination that remaining in the child's home would be contrary to the child's welfare; or

3) The child has been determined by the Social Security Administration to be eligible for Supplemental Security Income (SSI); or

4) The costs of the child's foster care have been covered by Title IV-E foster care payments made on behalf of her/his minor parent; or

5) The child was determined eligible for a Title IV-E adoption subsidy in a prior adoption, and the child is now available for adoption because the child's adoptive parent(s) parental rights have been terminated, the child's adoptive parent(s) have surrendered the child to the Department pursuant to MGL c. 210, § 2 or the child's adoptive parent(s) has died.

B. *Non-Applicable Children in the Care or Custody of a Private Licensed Placement Agency*. If the child has been placed for adoption in a pre-adoptive home by a private licensed placement agency, as defined in MGL c. 15D, § 1, one of the following is established:

1) The child has been determined by the Social Security Administration to be SSI eligible; or

2) The child meets the following criteria:

    a) At the time the adoption proceedings were initiated, the child met or would have met the AFDC requirements as they existed in July 16, 1996, except that the child was removed from her/his home, either as a result of an Adoption Surrender or a Voluntary Placement Agreement, or a judicial determination to the effect that continuation in the home would be contrary to the child's welfare; and

        i. If the child's removal from the home was the result of a court order there is a court document(s) establishing there was a judicial determination to the effect that continuation in the home would be contrary to the child's welfare and (a) the determination was in an order prior to adoption for children removed prior to January 23, 2001 or (b) in the first court order sanctioning the removal if the child was removed on or after January 23, 2001; or

        ii. If the child's removal from her/his home was the result of an Adoption Surrender or Voluntary Placement Agreement, a court document(s) establishes there was a judicial determination within 180 days after the initial placement with the agency to the effect that such placement was in the child's best interests.

**3. Applicable Child**

If the child is in substitute care and in the custody of the Department or a private licensed placement agency, one of the following is established:

a. The child was removed from their home pursuant to a custody order in which the court made a judicial determination that it was contrary to the welfare of the child to remain in the home and

   i. For children removed prior to January 23, 2001 the contrary to the child's welfare determination must have occurred prior to the month in which the adoption petition is filed; or

   ii. For children removed on or after January 23, 2001, the contrary to the child's welfare determination must be in the first court order removing the child from the home; or

b. The child was removed from their home pursuant to a Voluntary Placement Agreement or a Voluntary Adoption Surrender; or

c. The child meets all medical or disability eligibility requirements for SSI benefits; or

d. The child was residing in substitute care with the child's minor parent and the child's minor parent was in the Department's custody pursuant to a judicial determination that it was contrary to the welfare of minor parent to remain in the home or in the Department's care pursuant to a voluntary placement agreement or a voluntary adoption surrender; or

e. The child was determined eligible for a Title IV-E adoption subsidy in a prior adoption (or would have been found eligible if the Adoption and Safe Families Act of 1997 had been in effect at the time of the previous adoption), and the child is now available for adoption because the child's adoptive parent(s) parental rights have been terminated, the child's adoptive parent(s) have surrendered the child pursuant to MGL c. 210, § 2 or the child's adoptive parent(s) has died.

**4. Sibling of Applicable Child**

The sibling of an applicable child is eligible for a federally supported adoption subsidy if the sibling is adopted into the same adoption arrangement as his/her sibling and meets the eligibility criteria in subsection A.1 and A.3 above. The adoptions need not occur at the same time.

**B. State Adoption Subsidy Eligibility Criteria.** To be eligible for a State Adoption Subsidy a child must meet the following eligibility criteria [See, *Regulations* 110 CMR 7.209(4)]

1. The child is a child with special needs as defined in *Regulations* 110 CMR 7.209(2).
2. The child is in substitute care and in the custody of the Department.
3. Adoption is the plan for the child.
4. The child resides in the pre-adoptive home which has been licensed in accordance with *Policy #2006-01*, Family Resource Policy or by a child placing agency under the Interstate Compact on the Placement of Children Act.

**2. Adoption Subsidy Benefits**

**A. Financial Assistance**, when approved, is paid directly to the adoptive parent(s) without regard to family income, and is provided for the child's care and maintenance; P.A.C.T. services and/or clothing allowances may be included. The amount of financial assistance is determined by the Department, based on:

1) actual current cash payment provided for the child to the child's foster/pre-adoptive family;
2) third-party payments (e.g., SSI) made on the child's behalf; and
3) child's current specialized treatment and care requirements as outline in "Guidelines for P.A.C.T. Services" and "P.A.C.T. Standards for Reimbursement" directly related to the child's diagnosed special needs (see *Policy #89-002*, Supplemental Reimbursement Policy).

*[NOTE: The Department may, at its discretion, approve P.A.C.T. hours that are different from those provided to the foster/pre-adoptive family for the child while the child was in the Department's custody.]*

The total amount of the financial assistance benefit may not exceed the payment the child received, or would have been eligible to receive, while in family-based foster care.

***B. Deferred Adoption Subsidies***

*In accordance with Regulation 110* CMR 7.209(7), the Department may defer the financial assistance of a Title IV-E or state adoption subsidy when a child meets the other adoption subsidy eligibility criteria, but she/he is at an age that makes it difficult to diagnose a special need impairment, disorder or condition or she/he is at risk of such an impairment, disorder or condition due to her/his birth history or family history prior to placement; for example:

- concerns regarding her/his prenatal care or birth;
- exposure to domestic violence;
- documented incident(s) of abuse/neglect;
- mental or physical impairment or medical condition of one or both biological parents for which the child may have a genetic predisposition; and/or
- other documented trauma/loss to the child.

The child is initially provided with the medical assistance benefit, but not the financial assistance benefit. The adoptive family may in the future receive a financial assistance benefit if they request a re-determination of the adoption subsidy decision and submit to the Department's Subsidy Unit documentation from a qualified professional diagnosing the child's special needs that the child meets the criteria set for in *Regulations* 110 CMR 7.209(2)(b)(1) and section (2)(b)(i) under the definition of special needs in this policy.

**C. Medical assistance (MassHealth)**, when approved as part of an adoption subsidy, is provided for coverage of the child's healthcare expenses. MassHealth may not be accepted by all medical providers in all states. Children who receive Title IV-E adoption subsidy are categorically eligible for Title XIX medical assistance pursuant to 42 USC § 473(b)(3)(C) in the state where the child resides.

### 3. Who May Apply

The Department will consider applications for adoption subsidy on behalf of:

**A. Children with Special Needs in Department Custody,** i.e., those who have been legally freed for adoption and placed in a pre-adoptive home. Department Adoption Workers apply on behalf of children in Department custody. The adopting parent(s) will be notified of the child's eligibility and have the option to decline if they choose. Their decision not to accept the subsidy must be made in writing to the Subsidy Unit.

**B. Children with Special Needs in the Custody of a Licensed Placement Agency, as defined in MGL c. 15D, § 1.** The pre-adoptive parent(s) or the placement agency may apply.

**C. Adopted Children with Special Needs in the Custody of their Adoptive Parents under Certain Extenuating Circumstances** [see *Regulations* 110 CMR 7.209 (11) and (12)]**.**

1. The adoptive parent(s) has the right to apply for a ***Title IV-E adoption subsidy*** if, one of the following extenuating circumstances exists:
    a. relevant facts regarding the child's special needs, birth history or family history, which would have established that the child is a child with special needs as defined in *Regulation* 110 CMR 7.209(2), were known to the Department but not presented to the adoptive parent(s) prior to the legalization of the adoption; or
    b. the Department previously denied a Title IV-E adoption subsidy based on a means test of the adoptive family; or
    c. the Department made an erroneous determination that the child was ineligible for a Title IV-E adoption subsidy; or
    d. the Department or its contracted agency failed to advise the adoptive parent(s) of the availability of an adoption subsidy before the child's adoption; or
    e. the Department or its contracted agency failed to advise or erroneously advised the adoptive parent(s) of the requirement that the adoption subsidy agreement must be executed prior to the legalization for adoption; or

f. the adoptive parent(s) adopted the child with special needs in Massachusetts through a licensed nonprofit placement agency, as defined in MGL c. 15D, § 1, prior to April 14, 2000, and that agency failed to advise the adoptive parent(s) of the availability of an adoption subsidy or advised the adoptive parent(s) that such subsidies were not available.

2. The adoptive parent(s) has the right to apply for a ***state adoption subsidy*** if, one of the following extenuating circumstances exists:

   a. relevant facts regarding the child's special needs, birth history or family history, which would have established that the child is a child with special needs as defined above, were known to the Department but not presented to the adoptive parent(s) prior to the legalization of the adoption; or

   b. the Department failed to advise or erroneously advised the adoptive parent(s) of the availability of an adoption subsidy before the child's adoption or of the requirement that the adoption subsidy agreement be executed prior to the legalization for adoption.

## 4. Approval of Adoption Subsidies

The Department's Subsidy Unit determines the child's eligibility for either a Title IV-E or a state adoption subsidy and, if all eligibility requirements are met, the adoptive parent(s) and the Adoption Worker are notified. The Subsidy Manager approves or disapproves the adoption subsidy based on the information provided in the adoption subsidy application, information from the Department's Title IV-E eligibility system, other information provided by the Department Adoption Worker, and applicable federal and state policy.

In extraordinary circumstances, it may be appropriate to make the youth over age 18 years who has been the subject of an adoption subsidy the payee of a state adoption subsidy. This decision must be approved by the Subsidy Manager and the Assistant Commissioner over adoption. If approved, a new Adoption Subsidy Agreement must be completed and signed by the youth before payments are initiated.

If, due to termination of the adoptive parent's(s') rights or the death of the adoptive parent(s), the child again becomes eligible for adoption, the child retains adoption subsidy eligibility. [See *Regulation* 110 CMR 7.209(15)] When a new pre-adoptive family is identified, an Adoption Subsidy Agreement is completed and new subsidy terms are established (see Section 5, below).

## 5. Adoption Subsidy Agreement

In every situation in which the Department provides adoption subsidy, the Department and the prospective adoptive parent(s) must enter into an Adoption Subsidy Agreement.

***The Adoption Subsidy Agreement must be signed by the prospective adoptive parent(s) and returned to the Subsidy Unit prior to the date of legalization of the adoption or the subsidy will be denied.*** The Department will initiate subsidy benefits on or about the date the adoption is legalized.

The Adoption Subsidy Agreement includes the following:

- type of subsidy and benefits (i.e., Title IV-E or state; financial assistance, and/or medical assistance);
- amount of financial assistance;
- duration of subsidy;
- schedule for periodic verification of subsidy;
- terms for adjustment, suspension or termination of subsidy;
- a notice that the Department may check recipients of adoption subsidy with the Title IV-A and Title IV-D agencies to assist the Commonwealth with its federal reimbursement and to prevent fraud in Commonwealth programs.
- in Title IV-E Adoption Subsidy Agreements, notification that:
  - the Department will reimburse up to $400 of the total cost of any nonrecurring expenses associated with obtaining legal adoption of the child (see Sections V and VI below);

- certain qualifying expenses associated with the child's adoption may result in a benefit on the state and/or federal income tax form of the adoptive parent(s), i.e., a Massachusetts income tax exemption or a federal income tax credit [Federal qualifying expenses may include necessary adoption fees, court costs, attorney fees, traveling expenses (including amounts spent for meals and lodging while away from home) and other expenses directly related to and for which the principal purpose is the legal adoption of an eligible child; Massachusetts includes only the fee charged by the licensed placement agency.]; and
- if the family moves from Massachusetts to another state, financial assistance and medical assistance benefits as provided by the state of residence continue to be provided.

## 6. Denial of Adoption Subsidy

If either a Title IV-E or state adoption subsidy is denied, the prospective adoptive parent(s) is notified, in writing, of the denial, including the reason(s) for the denial and the right of the prospective adoptive parent(s) to appeal the denial decision through a fair hearing. [See *Policy #94-001*, Fair Hearing Office Policy and Procedure]

## 7. Extenuating Circumstances

If an adoptive parent believes the Department or the licensed nonprofit placement agency failed to inform her/him of the availability of a Title IV-E or state adoption subsidy, or the Department Adoption Worker (as applicable) failed to apply for such a subsidy prior to the legalization of the adoption, the adoptive parent may submit written requests for a subsidy and an appeal of the denial of the subsidy through the fair hearing process. The Fair Hearing Office may direct the Department to provide the adoption subsidy from a date beginning no earlier than the date the adoptive parent(s) notified the Department, in writing, that a subsidy was wrongly denied or withheld.

## 8. Verification

In accordance with *Regulations* 110 CMR 7.209 *et seq.*, the Department will conduct a ***periodic verification*** of the adoption subsidy according to a schedule stated in the Adoption Subsidy Agreement that provides for verification not less than one year after the subsidy initiation date.

### A. Verification of Title IV-E Adoption Subsidies

The Department sends a Verification of Subsidy form to the adoptive parent(s) at least 30 calendar days prior to a verification date that conforms to the periodic verification schedule stated in the Adoption Subsidy Agreement [normally on an annual basis but agreement to verify once every 2 or 3 years may be negotiated with the pre-adoptive parent(s)]. The verification requires the adoptive parent(s) to provide updated information regarding:

- the child's and adoptive parent's current place of residence;
- the child's school grade or level and expected graduation date (if applicable);
- confirmation that the parental rights have not been terminated;
- if the reason for subsidy is the child's impairment, behavioral disorder or medical condition, a report describing the child's present condition or current documentation to verify the condition (e.g., medical reports, evaluations, etc.) from a licensed professional qualified to confirm it *(NOTE: Collateral contacts may be made by the Subsidy Administrator to verify the documentation or the parent may be asked to provide additional documentation.)*; and
- confirmation that the adoptive parent(s) continues to support the child.

The adoptive parent(s) must complete and return the Verification of Subsidy form, with accompanying documentation (as required), to the Department within 30 calendar days after the date of receipt.

For adoptive parents receiving extended adoptions subsidy up to age 21, they must provide annual; documentation that the young adult continues to meet the criteria for an extended adoption subsidy. The Department will verify continue eligibility annually.

## B. Verification of State Adoption Subsidies

The Department sends a Verification of Subsidy form to the adoptive parent(s) at least 30 calendar days prior to a verification date that conforms to the periodic verification date stated in the Adoption Subsidy Agreement (normally on an annual basis). The verification requires the adoptive parent(s) to provide updated information regarding:

- the child's current place of residence;
- the child's school grade or level and expected graduation date (if applicable);
- the child's receipt of SSI or other third-party payments;
- if the reason for subsidy is the child's impairment, behavioral disorder or medical condition, a report describing the child's present condition or current documentation to verify the condition (e.g., medical reports, evaluations, etc.) from a licensed professional qualified to confirm it *(NOTE: Collateral contacts may be made by the Subsidy Administrator to verify the documentation.)*; and
- a request for continuation of P.A.C.T. services [including written statement(s) from provider(s) regarding need for services].
- if an extension of subsidy has been granted, the child is/will be enrolled full-time or part-time in a school, vocational, or college program (including proof of enrollment);

The adoptive parent(s) must complete and return the Verification of Subsidy form, with accompanying documentation (as required), to the Department within 30 calendar days after the date of receipt.

For adoptive parents receiving extended adoptions subsidy up to age 22, they must provide annual; documentation that the young adult continues to meet the criteria for an extended adoption subsidy. The Department will verify continue eligibility annually.

## C. Agency Action Related to Verification of Adoption Subsidies

### 1. Title IV-E Adoption Subsidy

If the Department receives information that indicates a basis to renegotiate the subsidy rate, the Department will engage in a process with the Adoptive parents to readjust the rate accordingly. If the information supports a basis to terminate the subsidy the Department will proceed in accordance with Section 9.B.3 below. If the adoptive parent(s) fails to return the Verification form and supporting documentation to the Department within the stated timeframe, the Department may use legally permissible means to suspend or terminate the financial assistance benefit.

The Department will notify the adoptive parent(s), in writing, of any adverse action taken and of her/his right to appeal through a fair hearing a reduction or discontinuation of financial assistance as the result of information the Department has received.

### 2. State Adoption Subsidy

If the Department receives information that indicates an adoption subsidy is no longer needed, or there has been a change in third-party payments received on behalf of a child receiving a state subsidy, the Department may adjust any future subsidy amounts and/or take action to recover past subsidy payments incorrectly paid. If third-party payments equal or exceed the amount of financial assistance, payment of financial assistance benefits is discontinued (although MassHealth coverage may continue).

The Department notifies the adoptive parent(s), in writing, of her/his right to appeal through a fair hearing the reduction or discontinuation of financial assistance as the result of information the Department has received.

If the adoptive parent(s) fails to return the Verification form to the Department within the stated timeframe, payment of the adoption subsidy financial assistance benefits may be suspended until such time as the form is completed and all required information and documentation is received by the Department. If the Verification form has not been responded to, and financial assistance benefits have been suspended for more than one year after the scheduled verification date, the Department may terminate the subsidy. The Department notifies the adoptive parent(s), in writing, that it is suspending the adoption subsidy and the

suspension effective date; the reason(s) for the suspension; and the terms under which the payments may be resumed or the subsidy may be terminated.

Suspended adoption subsidy financial assistance payments are resumed retroactively for up to one year if the adoptive parent(s):

- contacts the Department within one year after the scheduled verification date; and
- provides the required verification information to the Subsidy Unit.

The Department determines, on a case by case basis, the amount of financial assistance to be paid retroactively on an adoption subsidy that has been suspended for more than one year after the scheduled verification date. Any retroactive payments over one year require the written approval of the Assistant Commissioner over foster care and adoption.

## 9. Extension or Termination of Adoption Subsidies

### A. Notice of Request for Extension of Adoption Subsidy

The Department sends to the Adoptive Parents, at least 30 days prior to the child turning 18, notification that the subsidy will be terminated upon the child's 18th birthday unless the parent(s) request and are granted an extension in accordance with the criteria set forth in *Regulation* 110 CMR 2.09(16) and below in Sections 9.B for Title IV-E subsidy and 9.C for state subsidy. The notice will also inform the adoptive parents of the process for requesting an extension and the required information and documentation to be submitted with the request.

### B. Title IV-E Adoption Subsidies

1. **Extension.** The Department may extend Title IV-E adoption subsidy benefits to a young adult who reaches age 18 years up to age 21 when she/he meet the following criteria:

   a. the young adult has a mental or physical disability that warrants the continuation of adoption subsidy; or

   b. the adoption subsidy agreement was entered into after the child turned age 16, and after age 18 the young adult will be:

   i. completing secondary school (or equivalent);
   ii. enrolled in post-secondary or vocational school-full or part time;
   iii. participating in a program or activity that promotes or removes barriers to employment;
   iv. employed 80 hours a month; or
   v. determined incapable of any of the above due to a documented medical condition that meets federal requirements.

   2. **Documentation.** The Department will require documentation from the adoptive parent(s) to support a request for an extension of an adoption subsidy over age 18 and periodically require the adoptive parent to provide documentation that the young adult over 18 continues to meet the criteria for an extended adoption subsidy. Based on the documentation provided, the Department will annual verify that the young adult continues to be eligible for a Title IV-E adoption subsidy.

      a. For an extension based on a mental or physical handicap, or based on the young adult being incapable of doing any of the activities outlined in ***Regulation*** 110 CMR 7.209(16), the Department will require documentation of the young adult's mental or physical handicap or condition by a licensed professional qualified to make the diagnosis.

      b. For an extension based on the criteria set forth in ***Regulation*** 110 CMR 7.209(16), the Department will require documentation from the school, program or employer verifying the young adult's enrollment, participation or employment including the amount of time the young adult is involved.

3. **Termination** of Title IV-E adoption subsidy benefits occurs when the child reaches age 18 unless an extension has been approved.

a. Title IV-E adoption subsidy may be terminated *before* the child reaches age 18, if:
   i. the adoptive parent is no longer legally responsible for the child;
   ii. the child is no longer receiving support from the parent(s); or
   iii. the child or adoptive parent(s) dies.

b. A Title IV-E adoption subsidy may be terminated for a young adult, if:
   i. the child is no longer receiving support from the parent(s); or
   ii. the child or adoptive parent(s) dies.

The adoptive parent(s) is informed, in writing, of the effective date of termination and the right to appeal the Department's decision to terminate the Title IV-E adoption subsidy through a fair hearing. The adoptive parent(s) does not have a right to appeal termination of subsidy if the subsidy recipient has reached age 18 and an extension was not requested or if the subsidy recipient has reached the age of age 21 for an extended subsidy.

**C. State Adoption Subsidies**

1. **Extension.** The Department may extend state adoption subsidy benefits to children reaching age 18 years up to age 22 when the child meets the following criteria:
   a. is completing secondary school (or equivalent); or
   b. enrolled in post-secondary or vocational school either part or full-time; or

   the Department, at its option, may convert a Title IV-E adoption subsidy to a state adoption subsidy when a Title IV-E adoption subsidy ends.

2. **Documentation.** The Department will require documentation from the adoptive parent(s) to support a request for an extension of an adoption subsidy over age 18 and periodically require the adoptive parent(s) to provide documentation that the young adult over 18 continues to meet the criteria for an extended adoption subsidy. The Department will require documentation from the school, program verifying the young adult's enrollment.

3. **Suspension.** A state funded subsidy may be suspended if the child is temporarily residing out of the adoption home or if the adoptive parent(s) fails to respond to a Verification of Subsidy notice.

4. **Termination** of state adoption subsidy benefits occurs when the child reaches age 18 unless an extension has been approved.

   A state adoption subsidy may be terminated *before* the child reaches age 18, if:
   a. The adoptive parent(s) fails to respond to a Verification of Subsidy notice for more than one year after the scheduled subsidy verification date; or
   b. The adoptive parent(s) no longer legally responsible for child; or
   c. The child or adoptive parent(s) dies.

   The adoptive parent(s) is informed, in writing, of the effective date of termination and the right to appeal the Department's decision to terminate the state adoption subsidy through a fair hearing. The adoptive parent(s) does not have a right to appeal termination of subsidy if the adoption has been revoked, or if the subsidy recipient has reached age 18 and an extension has not been requested, or if the subsidy recipient has reached age 22 for an extended subsidy.

## 10. Deferred Adoption Subsidies

When a Deferred Subsidy is approved, the Department sends to the pre-adoptive parent(s) a Deferred Subsidy Agreement informing her/him(them) that she/he(they) may request a redetermination regarding the child's eligibility for either a Title IV-E or a state adoption subsidy at a

future date. The request for a redetermination must be submitted in writing and include documentation of the diagnosed impairment, disorder or condition from a licensed professional qualified to make the diagnosis. The pre-adoptive parent(s) is also informed that to preserve the child's eligibility and the right to request a fair hearing to challenge the Department's decision regarding a redetermination of a deferred adoption subsidy, she/he(they) must sign and return the Deferred Subsidy Agreement prior to the date the child's adoption is legalized. The Deferred Subsidy Agreement terminates on the child's 18th birthday unless otherwise amended.

## II. PROCEDURES: DEPARTMENT ADOPTION WORKER

1. **Initiating an Adoption Subsidy.** After a determination that adoption is an appropriate permanency plan for a child in the Department's care or custody and the child is placed in a pre-adoptive home, the Adoption Worker:
   - informs the prospective adoptive parent(s) of availability of Title IV-E and state adoption subsidies and other financial support for adopting parents by providing the subsidy program brochure and the Information for Parents: Reimbursement of Adoption Expenses fact sheet.
   - after the child is freed for adoption:
     - completes a Subsidy Application in the child's electronic case record (a separate Application is completed on each child in a sibling group to be adopted in the same home); and
     - if the child is placed through an interstate compact authorization, the Social Worker submits a request in the child's electronic case record for the Interstate Compact on the Placement of Children (ICPC) Unit to obtain;
       - an adoption home study if such study had not been completed and
       - the consent of the receiving state to the adoption.

4. **Referral of Application to Subsidy Unit.** The Adoption Worker forwards a "hard copy" of the completed Application to the Subsidy Administrator, along with the following attachments (as applicable):
   - copies of the Adoption Petition and the Adoption Plan; and
   - copies of the document first giving the Department care or custody:
     - If the child was first placed in custody under a court order, a copy of the first mittimus/custody order; or
     - if the child was first placed in care under a Voluntary Placement Agreement, a copy of the first Voluntary Placement Agreement; and
   - a Quarterly Clothing Request if quarterly clothing allowance is requested; and
   - a copy of the current P.A.C.T. Documentation Form, when continuation of P.A.C.T. services is requested; and
   - a copy of the child's birth certificate; and
   - for a child with a diagnosed special need: documentation from a qualified, licensed professional who has evaluated and/or treated the child on the *current status* (i.e., within one year prior to the Application date) of the child's diagnosed special need, including a statement regarding the impact of the diagnosed impairment, disorder or condition of the child's lifestyle (*NOTE: Only required if the original diagnosis was made more than one year in the past, or if documentation of the original diagnosis is not available or cannot be located.);* or
   - for a child who does not have a diagnosed special need but is considered to be at risk of having a diagnosed impairment, disorder or condition in the future, a summary of the child's relevant background, including birth and family history.

5. **Post-Approval Tasks.** After notification of approval of adoption subsidy by the Subsidy Administrator (see Section III "Procedures: Subsidy Administrator," Procedure 1, below), the Adoption Worker documents the approval of a Title IV-E or state adoption subsidy in dictation.

   Once the Adoptive parents have signed and returned the Adoption Subsidy Agreement to the Department's Subsidy Unit, the Adoption Worker can proceed with the adoption legalization process according to relevant regulations and policy.

On or about the date the adoption is legalized:

- the Adoption Worker: closes the clinical/adoption case for the child named in the adoption petition and for any other family members who will no longer receive Department services;
- the Adoption Worker: opens a new "adoption legalized with subsidy" electronic subsidy case record for the child; and
- the Adoption Supervisor transfers the child's new subsidy case, electronically to the Subsidy Administrator. (See *Policy #85-001,* Case Transfer Policy)

## III. PROCEDURES: SUBSIDY ADMINISTRATOR/SUBSIDY WORKER

1. **Adoption Subsidy Approval.** Upon receipt of a completed Subsidy Application from a Department Adoption Worker, pre-adoptive parent or representative of a licensed nonprofit placement agency (as defined in MGL c. 15D, § 1) or of a written request for a deferred subsidy redetermination from an adoptive parent(s)**,** the Subsidy Worker:
   - reviews the Subsidy Application or written request for a deferred subsidy redetermination (as applicable) and related documents; and
   - determines the child's eligibility for a state adoption or Title IV-E subsidy, with the support of the Department's revenue unit/provider.

   *[NOTE: The licensed nonprofit placement agency is responsible for assisting the pre-adoptive or adoptive parent(s) in completing the Application (even when extenuating circumstances are being cited) and, when approved for an adoption subsidy, the verification process, including eligibility for SSI.]*

   If adoption subsidy is approved, the Subsidy Worker:
   - determines and documents the financial and/or medical assistance subsidy benefits, subject to the following provisions:
     - ***For a Title IV-E subsidy***, the type and amount will be negotiated with the pre-adoptive parent(s) and documented on the Application. The financial benefit will not be greater than the amount the child was receiving while in foster care.
     - ***For a state subsidy***, the assistance will not exceed the foster care benefits the child is receiving and may be less than requested.
   - establishes the verification date;
   - sends the Notification of Adoption Subsidy decision and, if approved, 2 copies of the Adoption Subsidy Agreement to the pre-adoptive parent(s), within 45 working days after the Subsidy Application or written redetermination of a deferred subsidy request was received by the Subsidy Unit; and
   - notifies the Department Adoption Worker or the licensed nonprofit placement agency, as applicable, of the adoption subsidy decision, as applicable; and
   - upon receipt of the signed Adoption Subsidy Agreement from the pre-adoptive parent(s), documents in the child's electronic case record the dates the agreement was signed by the pre-adoptive parents and the Department.

2. **Initiation of Adoption Subsidy Benefits.** The Subsidy Administrator/Worker:
   - electronically accepts transfer of a Department case from the Adoption Supervisor or creates a new electronic case record for the child, as applicable;
   - initiates subsidy financial assistance payments, when approved, on or about the date of adoption legalization; and
   - arranges for MassHealth benefits to be initiated, if not provided to the child prior to adoption. (*NOTE: A new MassHealth card will be generated for the child); and*
   - provides the state of residence with the appropriate form from the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA) if the family resides out of state.

3. **Adoption Subsidy Denial or Department Financial Assistance Reduction.** When the child is determined to be ineligible for a Title IV-E or state adoption subsidy or the amount of financial assistance from the Department is changed due to third party payments, the Subsidy Administrator/Worker informs the pre-adoptive parent(s), in writing, including:
   - a statement of the reason(s) for subsidy denial or financial assistance reduction; and
   - the right of the pre-adoptive parent(s)/adoptive parent(s) to appeal the denial or reduction decision through a fair hearing.
4. **Title IV-E and State Adoption Subsidy Verification.** The Subsidy Unit provides for a Verification of Subsidy form to be sent to the adoptive parent(s) at least 30 days prior to the verification date included in the Adoption Subsidy Agreement. This will include notification that after the youth reaches age 18 years, she/he may continue to receive a Title IV-E or state adoption subsidy if she/he files a request for an extension and meets the criteria for such extensions established by the Department.

   Upon receipt of a completed Verification of Subsidy form, the Subsidy Worker follows the procedures for subsidy verification in Section #8, above.

## IV. PROCEDURES: EXTENSION OR TERMINATION

1. **Extension.**
   a. **Title IV-E Adoption Subsidy:** Upon written request by the adoptive parent(s), the Subsidy Administrator/Worker may approve a Title IV-E subsidy for a young adult who reaches age 18 years until age 21, provided the young adult meets the criteria for an extension listed in ***Regulation*** 110 CMR 2.09 (16)(b) and in Section 9(A)(1) above.
   b. **State Adoption Subsidy:** Upon written request by the adoptive parent(s), the Subsidy Administrator/Worker may approve a state subsidy for a young adult who reaches age 18 years until age 22, provided the young adult meets the criteria for an extension listed in ***Regulation*** 110 CMR 2.09(16)(b) and Section 9(B)(1) above.

   *[NOTE 1: The Subsidy Unit may periodically request updated documentation to confirm the youth's continued enrollment in an approved educational program or that she/he otherwise meets the required criteria for continued assistance.]*

   *[NOTE 2: The Subsidy Administrator may transfer the child from Title IV-E to state subsidy benefits if the child is no longer eligible for Title IV-E subsidy benefits due to her/his age but meets state subsidy eligibility requirements.]*

   The Subsidy Worker:
   - verbally notifies the adoptive parent(s) if subsidy extension is approved, sends a written notice and documents the extension in the child's electronic case record. *[NOTE: This includes arranging for the adoption subsidy to be changed from Title IV-E to state, as applicable, before any further payments are issued.]*, or
   - follows procedures for termination of the subsidy, if the request for extension of the subsidy is denied.
2. **Adoption Subsidy Termination.** When the youth reaches age 18 (unless an extension has been approved) or other conditions for termination exist requiring termination of subsidy prior to age 18 (as stated in Section 9 above), the Subsidy Unit:
   - notifies the adoptive parent(s) of the effective date of termination of the adoption subsidy, using Notice to Adoptive Parent(s): Subsidy Reduction/Termination, which includes a statement of reason(s) for termination, in accordance with Department policy and regulations, and the right of the adoptive parent(s) to appeal the termination decision through a fair hearing (unless the child has reached age 18 or the subsidy extension age limit); and
   - documents the subsidy termination, in dictation, on the effective date.

## V. POLICY: REIMBURSEMENT OF NON-RECURRING ADOPTION EXPENSES

The Department provides a one-time payment, not to exceed a periodically determined maximum amount (i.e., $400.00 as of the date this policy was issued), to reimburse families for non-recurring expenses directly related to the adoption of a child with special needs, as defined in ***Regulation*** 110 CMR 7.209(1)

Non-recurring adoption expenses may be reimbursed (after legalization of the adoption) to the pre-adoptive parent(s) of a child with special needs in the custody of the Department or a Department contracted agency, or in the custody of a licensed non-profit placement agency, as defined in MGL c. 15D, § 1.

A pre-adoptive parent(s) who intends to claim a federal income tax credit for adoption related expenses may not participate in this program.

**Eligibility**

Eligibility for reimbursement is based on the Department's determination that the child is a child with special needs. The Department determines reimbursement of non-recurring adoption expenses eligibility and the amount of payment without regard to family income, based on documented evidence of expenses directly related to the adoption.

To apply for reimbursement, the pre-adoptive parent(s) must contact the Department's Subsidy Unit to request an "Application for Reimbursement of Non-Recurring Adoption Expenses." The pre-adoptive parent(s) must complete, sign, and return the Application to the Department before legalization of the adoption. Copies of adoption related cost receipts (if available at the time of application) should be included with the returned Application.

The claim of a special need based on a diagnosed physical, mental, or emotional impairment, behavioral disorder, or medical condition must be accompanied by:

a. documentation of the original diagnosis of the child's impairment, disorder, or condition from a licensed professional qualified to make such a diagnosis (as available); and/or
*b.* an updated report (within 1 year prior to the date of the Application), from a qualified, licensed professional who has evaluated and/or treated the child, on the current status of the child's diagnosed impairment, disorder, or condition. *(Only required if the original diagnosis was made more than 1 year in the past, and/or if documentation of the original diagnosis is not available/cannot be located.)*

*[NOTE: Documentation of the child's diagnosed special need does not have to be included with the "Application for Reimbursement of Non-Recurring Adoption Expenses" if it has been previously submitted to the Subsidy Unit as part of the adoption subsidy application process, and is so noted on the Application.]*

If eligibility criteria for a non-recurring adoption expenses reimbursement are met, expenses directly related to the adoption of the child with special needs are reimbursed to the pre-adoptive parent(s) after legalization of the adoption.

**Reimbursable Adoption Expenses**

Non-recurring adoption expenses that qualify for reimbursement include:

a. reasonable and necessary adoption fees;
b. court costs;
c. attorney fees; and/or
d. other costs directly related to the adoption, for example:
    - pre-adoptive homestudy cost;
    - required health and/or psychological examinations;
    - travel, lodging and/or food expenses incurred as part of the adoption process.

Non-recurring expenses that do ***not*** qualify for reimbursement include:

a. costs for which the pre-adoptive parent(s) is eligible to be, or has been, reimbursed by other sources;

b. costs that would normally be paid by the licensed non-profit placement agency, for example, family counseling; or
c. home renovations made due to the child's special needs circumstances.

Application for reimbursement of non-recurring adoption expenses is made independently from the application for an adoption subsidy, and has no bearing on the eligibility for, or amount of, adoption subsidy benefits paid after the child's adoption.

## VI. PROCEDURES: REIMBURSEMENT OF NON-RECURRING ADOPTION EXPENSES

1. **Informing Pre-Adoptive Parent(s).** When a child with special needs has been legally freed for adoption and is placed in a pre-adoptive home, the Adoption Social Worker (or the representative of the Department's contracted agency or licensed nonprofit placement agency, as applicable) provides the pre-adoptive parent(s) with an "Information for Parents: Reimbursement of Non-Recurring Adoption Expenses" fact sheet.
2. **Application Request.** Upon request of the pre-adoptive parent(s) for reimbursement of adoption expenses, the Subsidy Administrator sends an "Application for Reimbursement of Non-Recurring Adoption Expenses."
3. **Reimbursement Eligibility Determination.** When the "Application for Reimbursement of Non-Recurring Adoption Expenses" is returned by the parent(s) to the Subsidy Unit, the Subsidy Administrator:
    a. reviews the completed Application;
    b. determines non-recurring adoption expense reimbursement eligibility; and:
    c. if the family is approved for reimbursement, documents the approval in the child's electronic subsidy record.
4. **Pre-Adoptive Parent(s) Notice.** The Subsidy Unit notifies the family of the non-recurring adoption expenses reimbursement approval or denial, using "Notice to Pre-Adoptive Parent(s): Reimbursement Approval/Denial." If the Application is approved, the amount of reimbursement is stated in the letter. If the Application is not approved, the reason(s) for reimbursement denial is stated.
5. **Reimbursement Payment.** The Subsidy Unit initiates the reimbursement payment after legalization of the adoption and after the Subsidy Unit has received copies of receipts of all claimed non-recurring adoption expenses. The Subsidy Administrator determines the amount of the reimbursement payment, based on verification of the family's claimed adoption expenses. If estimated costs claimed on the Application differ from the actual amount paid, the Subsidy Administrator adjusts the final amount of the payment accordingly.