

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/26/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/13/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

07 02 12 02-.08

3. Name of Promulgating Authority

Department of Human Resources

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: October 1, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Kelly James, Assistant Attorney General, (telephone #410-767-7726) on September 29, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Sam Malhotra

Title

Secretary

Telephone No.

410-767-6586

Date

October 26, 2015

Title 07
DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.12 Adoption

Authority: Education Article, §15-106.1; Human Services Article, §4-207; Family Law Article, Title 5, Subtitle 3, Subtitle 3A, Subtitle 3B, Subtitle 4, Subtitle 4A, §§5-101, 5-301—5-414, 5-3A-01—5-3A-07, 5-4A-01—5-4A-07, 5-4B-01—5-4B-12, 5-501, 5-524, 5-525, 5-525.1, 5-525.2 and 5-530; Annotated Code of Maryland; Ch. 444, Acts of 2007; 25 U.S.C. §§1901—1963, 42 U.S.C. §670 et seq.; 45 CFR 1355, 1356.4, and 1356.41

Notice of Proposed Action

[]

The Secretary of the Department of Human Resources proposes to amend existing Regulation 02, 03, 04, 05, 06, 07, and 08 under COMAR 07.02.12 Adoption.

Statement of Purpose

The purpose of this action is to align current regulations with adoption and post-adoption practices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jennifer McCabe, Social Services Administration, Department of Human Resources, 311 West Saratoga Street, Baltimore, MD 21201, or call 410-767-7114, or email to jennifer.mccabe@maryland.gov, or fax to . Comments will be accepted through December 14, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

Not Applicable

E. If these regulations have no economic impact under Part A, indicate reason briefly:

Not Applicable

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Not Applicable

G. Small Business Worksheet:

Not Applicable

Attached Document:

Title 07
DEPARTMENT OF HUMAN RESOURCES
Subtitle 02 SOCIAL SERVICES ADMINISTRATION
Chapter 12 Adoption

Notice of Proposed Action

The Secretary of the Department of Human Resources proposes to amend existing Regulation 02, 03, 04, 05, 06, 07, and 08 under COMAR 07.02.12 Adoption.

Statement of Purpose

The Department is revising the Adoption regulations, COMAR 07.02.12.02B(5)(6)(12), 07.02.12.03C(1)(2)(3), D(1)(2)(3)(4),E(1)(2)(a)(b)(i)(ii)(iii)(c)(d)(3)(a)(i)(ii)(iii)(b)(i)(ii)(iii),07.02.12.03F(1)(a)(b)(c)(d)(2)(a)(b)(3) 07.02.12.03G, 07.02.12.03H, 07.02.12.03I, 07.02.12.04A, 07.02.12.04E(1)(2),07.02.12.04F(2)F(3)(a)(c), 07.02.12.05D(3)(a)(i)(ii)(iii), 07.02.12.05E(3),E(3)(c), 07.02.12.05F(7)(e), F(8), F(10), 07.02.12.05 I(1)(2)(3)(4), 07.02.12.05 J(2)(3), 07.02.12.05 K(5)(b)(iii), K(5)(c), K(7), 07.02.12.05 L(3), 07.02.12.05 M(1)(b)(i)(ii)(iii)(iv)(v)(vi), 07.02.12.06B(4), 07.02.12.06C(7)(b),C(7)(c),C(8),C(9), 07.02.12.06F(1)(2)(3)(4)(5)(6),07.02.12.06G(1)(a),G(2)(a),G(3), 07.02.12.06 H(4), H(4)(d)(i)(ii)(iii)(iv)(v)(vi), H(5)(a)(i)(ii), H(5)(c), 07.02.12.06I(3), 07.02.12.06J(2)(b)(c)(d)(e), 07.02.12.07A, 07.02.12.07B(2), 07.02.12.07C(5)(6)(7)(8), 07.02.12.07F(1)(2)(3)(4)(5)(a)(b),07.02.12.07G(1)(a), 07.02.12.07H(4), H(4)(d)(i)(ii)(iii)(iv)(v)(vi),H(5)(a)(i)(ii), H(5)(c), 07.02.12.07I(3), 07.02.12.07J, J(1)(c)(e)(f),J(2)(a)(b)(c)(d)(e),J(3)(a)(b)(c), 07.02.12.08, 07.02.12.08A, 07.02.12.08B(1)(2)(3), 07.02.12.08E, 07.02.12.08G(5). The purpose of this action is to rewrite the adoption regulations so that they are aligned with practice and the information is streamlined. The revised adoption regulations focus on: 1) what occurs after termination of parental rights and the agency has been awarded guardianship of the child; 2) placement for adoption; 3) post adoption; and 4) adoption assistance.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulation Coordinator, Department of Human Resources, Office of Government Affairs, 311 W. Saratoga Street, Suite 265, Baltimore, Maryland 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax

to 410-333-0637. Comments will be accepted through. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations? No funding is needed to implement the regulation.

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations: Not Applicable

E. If these regulations have no economic impact under Part A, indicate reason briefly: there is no economic impact because existing resources will be used to implement the regulation.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet. Not Applicable

G. Small Business Worksheet:

.01 Purpose.

Adoption services are provided to:

A.-E. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) - (4) (text unchanged)

(5) "Adoption placement" means the placement of a legally free child with an approved adoptive family or individual who has signed [a placement agreement] *an Adoption Placement Agreement*. [with the intent to adopt the child.]

(6) "Adoptive family" means an adoptive parent or legal guardian who is eligible to receive [State] adoption assistance on behalf of a child.

(7)-(11) (text unchanged)

(12) "Dissolution" means [the return to foster care of a child who has been adopted.] *the parental rights of the adoptive parent have been terminated*.

(13)-(37) (text unchanged)

.03 Placement for Adoption.

A.-B. (text unchanged)

C. [Documentation in the case record of efforts to locate a family for a child shall include:] *Selection of an Adoptive Home for a Child.*

(1) [Photolisting;] *In an adoptive placement of an Indian child, the local department shall give preference to placement as set forth in the federal Indian Child Welfare Act of 1978.*

(2) [Dates and descriptions of events attended by the child that provide an opportunity for the child to meet potential adoptive parents; and] *When a child is in need of an adoption placement, the local department shall take the following steps to recruit adoptive families who can meet the child's individual needs:*

(a) *Use the following documented information in the child's agency record about the child to identify potential adoptive families:*

- (i) *Identifying information;*
- (ii) *History;*
- (iii) *Current behavioral issues; and*
- (iv) *An accurate description of the child's:*
 - a) *Personality;*
 - b) *Recreational interests; and*
 - c) *Ties to birth relatives*

(b) *Within 15 working days of a change in the permanency plan by the court to adoption, determine whether there is an appropriate adoptive family, approved by the local department, who is committed to adopt the child when the termination of parental rights petition is granted using the criteria set forth in §E(2)(a) of this regulation;*

(c) *Consistent with the best interests of the child, consider the following adoptive placement options in order of priority:*

- (i) *Adoption by a relative;*
- (ii) *Adoption by the current foster parent with whom a child has resided continually for at least 12 months or for a sufficient length of time to establish positive relationships and family ties; or*
- (iii) *Adoption by another adoptive family;*

(d) *If no appropriate local department approved family resource is identified within 15 working days of the change in the permanency plan, provide a strengths-based narrative, as described in §E(3) of this regulation, to the AdoptUSKids to identify prospective adoptive families; and*

(e) *Continue to engage in recruitment efforts until a permanent placement is achieved for the child unless there is a change in the child's permanency plan.*

(3) [(3) Written descriptions of the child used to promote the adoption.] *The AdoptUSKids narrative shall be a strengths-based narrative that:*

(a) *Is respectful of the child's confidentiality concerns regarding the child's:*

- (i) *Identifying information;*
- (ii) *History;*
- (iii) *Current behavioral issues; and*

(b) *Provides an accurate description of the child's:*

- (i) *Personality;*
- (ii) *Recreational interests; and*
- (iii) *Ties to birth relatives.*

D. [Open Adoption.] *Documentation in the case record of efforts to locate a family for a child shall include:*

(1) [Open adoption may permit contact between an adopted child and the child's birth relatives, including:] *Photolisting;*

- [a) Birth parents;]
- [b) Grandparents; or]
- [c) Siblings.]

(2) [A local department may explore an open adoption when:] *Dates and descriptions of events attended by the child that provide an opportunity for the child to meet potential adoptive parents; and*

[a) Older children in out-of-home care have formed significant emotional attachments to their birth parent or other birth relatives; or]

[b) It is otherwise appropriate and in the child's best interests to maintain contact with the child's birth parent or birth relatives.]

(3) [Open adoption arrangements may be flexible to address the desires of the parties and the needs of the child and may include:] *Written descriptions of the child used to promote the adoption.*

- [a) Face-to-face contacts;]
- [b) Communication using electronic mail and social networking sites; and]
- [c) The exchange of cards, letters, or phone calls, either directly or through a third party.]

[(4) If mediation is used to facilitate an open adoption or adoption finalization, the local department shall:]

- [a) Provide information to all parties regarding the mediation process; and]
- [b) Make any necessary referrals so that mediation may occur.]

[E. Selection of an Adoptive Home for a Child.

(1) – (3)]

E. Child Specific Recruitment Efforts.

(1)–(2) (text unchanged)

(3) When difficulty in locating an appropriate adoptive family for a child is anticipated, the child shall be listed with [MARE,] *AdoptUsKids*[,] and other adoption exchanges before the 15th working day mandatory deadline in order to extend the parameters of the search as early as possible.

F. Open Adoption.

(1) *Open adoption may permit contact between an adopted child and the child's birth relatives, including:*

(a) *Birth parents;*

(b) *Grandparents: or*

(c) *Siblings.*

(2) *A local department may explore an open adoption when:*

(a) *Older children in out-of-home care have formed significant emotional attachments to their birth parent or other birth relatives; or*

(b) *It is otherwise appropriate and in the child's best interests to maintain contact with the child's birth parent or birth relatives.*

(3) *Open adoption arrangements may be flexible to address the desires of the parties and the needs of the child and may include:*

(a) *Face-to-face contacts;*

(b) *Communication using electronic mail and social networking sites; and*

(c) *The exchange of cards, letters, or phone calls, either directly or through a third party.*

(4) *If mediation is used to facilitate an open adoption or adoption finalization, the local department shall:*

(a) *Provide information to all parties regarding the mediation process; and*

(b) *Make any necessary referrals so that mediation may occur.*

G. Adoption Placement Plan

(1) *If the resource family that provided out-of-home services to the child has been selected as the adoptive family of the child, the family shall sign an Intent to Adopt Placement Agreement.*

(2) *When a non-related resource family with whom the child has not previously lived is selected as the adoptive family, the child and family shall*

(a) *have pre-placement visits prior to the day of placement; and*

(b) *the family shall sign an Intent to Adopt Placement Agreement.*

H. Postplacement services.

(1) *Goals of postplacement service. The local department shall*

(a) *Sustain permanence for children placed with adoptive families prior to finalization of the adoption;*

(b) *Help resolve any adjustment problems that may occur during postplacement; and*

(c) *Promote the integration of the family and child as a single-family unit.*

(2) *Duration.*

(a) *The child must live with the adoptive family for at least six months or shorter period allowed by the juvenile court on recommendation of the local department as set forth in FL 5-349;*

(b) *Postplacement Services may be extended by mutual agreement of the family and local department based on the needs of the child and the family.*

(3) *Requirements for Service. The agency caseworker shall*

(a) *clarify with the family the mutual rights and responsibilities in regard to the placement at the beginning of the placement as set forth in COMAR 07.02.25.07., .08, and .17;*

(b) *provide postplacement services to all children and families before an adoption is finalized to strengthen and support the family functioning and integration.*

(4) *Content of Services. The agency shall:*

(a) *Provide evaluative, supportive, and educational services geared to adoptive family development with emphasis on the unique nature of adoption;*

(b) *Place special emphasis on the integrity and continuity of the child's heritage and genetic histories as to the continuing growth and development of the child as an individual, and to the development of the family as an integrated unit; and*

(c) *Maintain ultimate responsibility for other services set forth in COMAR 07.02.11.16G(4)(a) until the adoption is finalized by the Court.*

(d) *Frequency of Contact and Length of Service. The agency caseworker shall:*

(i) *Visit the adoptive family as often as indicated but at least monthly in accordance with requirements in COMAR 07.02.11.17 and .05 and FL§5-349;*

(ii) *Use observations during the visits in determining the frequency of visits and the family's readiness for finalization of the adoption; and*

(iii) *Include the child in these visits according to the child's age and capability.*

(5) *Removal of a Child from Adoptive Home.* The local department may remove a child before a final decree of adoption is issued if, in the opinion of the local department, conditions in the adoptive home impair the child's security in the family and jeopardize the physical safety or emotional development of the child;

(6) *Decision to Finalize Adoption.* The caseworker shall assess the readiness of the family to finalize the adoption based on the following indications:

(a) The family's indication that they are ready to adopt.

(b) The worker's recommendation that the adoption is in the child's best interest and that the family is ready to adopt;

(c) The child's indicated readiness in the following ways:

(i) Child over 10 years of age consents; or

(ii) Child under 10 years of age does not object .

(7) Once the family and the caseworker have determined that it is time to finalize the adoption, the caseworker shall:

(a) Prepare the necessary documents to support the family's finalization of the adoption; and

(b) Acquire the local department director's consent to the adoption;

I. Termination of Postplacement Services. Postplacement Services are terminated when the adoption decree is finalized by the Court.

.04 Post Adoption Services.

A. Post adoption services may be provided to support the adoptive placement *after adoption finalization* in accordance with available staff resources.

B. – D. (text unchanged)

E. Release of Nonidentifying Information.

(1) Upon request of an adoptee, or the adoptive or birth parent, a local department shall release all non-identifying medical and birth family history information contained in the closed adoption file to the [adoptive] requestor.

(2) When a local department has no medical information, local department staff shall inform the [adoptive or birth parent] requestor of the:

(a) –(b) (text unchanged)

(3) – (5) (text unchanged)

F. Post Adoption Permanency Program Services.

(1) (text unchanged)

(2) A local department shall notify families of the availability of *post adoption* support services during the adoption orientation process.

(3) Upon the request of an adoptive parent for available post adoption support services, the local department of social services shall:

(a) Obtain a copy of the [adoption petition] *adoption decree* from the adoptive family requesting supportive services;

(b) (text unchanged)

(c) Determine whether the adopted child is [in danger of] *at risk of coming into out-of-home, or foster care*, placement and in need of post adoption support services not available from other resources.

(4) – (9) (text unchanged)

.05 Title IV-E Monthly Adoption Assistance.

A.-C. (text unchanged)

D. IV-E Child Eligibility Criteria.

(1) – (2) (text unchanged)

(3) A child is an applicable child if:

(a) The child is:

(i) [16] 6 years old or older in *federal* fiscal year [2010] 2015;

(ii) [14] 4 years old or older in *federal* fiscal year [2011] 2016; or

(iii) [12] years old or older in fiscal year 2012, with the age decreasing by 2 years each year until October 2017 when a child of any age will meet this criterion;] *In federal fiscal year 2017, when a child of any age will meet this criterion;*

(b)-(c) (text unchanged)

(4) (text unchanged):

(a) (text unchanged)

(b) (text unchanged)

(5) (text unchanged)

E. Nonapplicable Child Eligibility Criteria.

(1) – (2) (text unchanged)

(3) *Special needs for a [A] nonapplicable child exist when [is a special needs child if]:*

(a) (text unchanged)

(b) (text unchanged)

(c) Reasonable but unsuccessful efforts have been made to place the child without adoption assistance, unless the child is being adopted by their foster parent who provided foster care services and has significant emotional ties with that person [their foster parent].

(4) (text unchanged)

F. Payments.

(1)-(6) (text unchanged)

(7) Negotiation

(a)-(d) (text unchanged)

(8) Concurrent Receipt of Benefits [at the Time of the Adoption Finalization].

(a)-(c) (text unchanged)

(d) *The family shall report their receipt of benefits to the Administration while the adoption assistance agreement is in effect.*

(9) (text unchanged)

(10) *If the local department makes an overpayment through error or some other means, the local department may recover the over payment.*

G. – H. (text unchanged)

I. Interstate Adoption.

(1)[The state that holds guardianship of the child prior to finalization shall be responsible for entering into the adoption assistance agreement.] *If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that State shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.*

(2)[The adoption assistance amount shall not exceed the foster care payment the parent would have received if the child were in foster care in Maryland, or if the child is placed in another state, the adoption assistance amount shall be no more than the applicable board rate in that state, whichever is higher.] *If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' State of residence. In that event, the public child welfare agency in the adoptive parents' State of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.*

(3) [In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Medical Assistance to facilitate the interstate coordination of benefits.] *An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.*

(4) *In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.*

(a) *The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.*

(b) *The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.*

J. (text unchanged).

(1) (text unchanged)

(2) If the child continues to meet the special needs factor criteria [.] ;and

(3) *The Adoption Assistance Agreement is signed by the Director or designee and the subsequent adoptive parent prior to the finalization of the adoption.*

K. Annual Redetermination.

(1) – (4) (text unchanged)

(5) Education, vocational training, and disability documentation for a child younger than 18 years old includes:

(a) (text unchanged)

(b) (i)-(ii) (text unchanged)

(iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child; [and] or

[(c)] (iv) Proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date for the child who is enrolled in a home school program approved by the educational agency in the child's place of residence.

(7) If an adoptive family's failure to return the required information for renewal to the local department leads the Department to conclude that one of the bases for terminating the adoption assistance as stated in §M of this regulation exists, the local department may terminate the adoption assistance. *The family must be given a letter of intended action that contains a statement regarding the right to appeal the determination.*

L. Renegotiation of Adoption Assistance.

(1) – (2) (text unchanged)

(3) The renegotiated adoption assistance amount may not exceed the foster care payment the foster parent [would have received for the child] *received when the child was in foster care.*

(4) – (5) (text unchanged)

M. Termination of IV-E Adoption Assistance.

(1) (text unchanged)

(a) (text unchanged)

(b) (text unchanged)

(i) *The child is [C]completing secondary education or a program leading to an equivalent credential;*

(ii) *The child is [E] enrolled in [or attending a Maryland Higher Education Commission institution of higher learning or an equivalent] an institution which provides post-secondary or vocational education;*

(iii) [Enrolled in or attending a vocational training program] *The child is participating in a program or activity designed to promote, or remove barriers to, employment;*

(iv) [Participating in a program or activity designed to promote, or remove barriers to, employment] *The child is employed for at least 80 hours per month; or*

(v) [Employed for at least 80 hours per month; or] *The child is incapable of doing any of the above described activities due to a medical condition.*

[(vi) Incapable of doing any of the above described activities due to a medical condition.]

(2)-(3) (text unchanged)

.06 State-Funded Monthly Adoption Assistance.

A. (text unchanged)

B. An eligible child

(1)-(3) (text unchanged)

4. *A child is not eligible for adoption assistance if being adopted by a biological parent whose rights were previously terminated.*

C. Payments.

(1) – (6) (text unchanged)

(7) Concurrent Receipt of Benefits or Other Income.

(a) (text unchanged)

(b) If a child receives other Social Security benefits, such as disability, survivor's benefits or retirement benefits, or other income, the monthly adoption assistance payment [shall] *may* be reduced to reflect the receipt of the additional resources.

(c) *The family shall report their receipt of benefits to the Local Department while the Adoption Assistance Agreement is in effect.*

(8) Adoption assistance payments shall become effective [at the time of] *on the date* the adoption is [finalization] *finalized.*

(9) *If the local department makes an overpayment through error or some other means the local department may recover the over payment.*

D. – E. (text unchanged)

F. Interstate Adoption.

(1) [The state that held guardianship prior to finalization shall be responsible for entering into an adoption assistance agreement.] *If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that State shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.*

(2) [An adoption assistance payment shall be no more than the foster care payment the parent would have received if the child were in foster care in Maryland, or the applicable board rate in the state of residence, whichever is higher.] *If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' State of residence. In that event, the public child welfare agency in the adoptive parents' State of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.*

(3) [The adoption assistance agreement shall remain in effect if the Maryland adoptive parent and the child move to another state.] *An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.*

[(3)] (4) The adoption assistance agreement shall remain in effect if the Maryland adoptive parent and the child move to another state.

[(4)] The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence.]

[(5)] The local department shall provide the state of residence with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence.]

[(6)] (5) In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.

(a) *The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.*

(b) *The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.*

G. Death of Parents and Dissolution of the Adoption.

(1) (text unchanged)

(a) Received [an] adoption assistance during the child's prior adoption; and

(b) (text unchanged)

(2) (text unchanged)

(a) The caretaker assumes [guardianship] *legal custody and/or guardianship* of the child; and

(b) The local department has determined that the caretaker is able to provide appropriate care for the child.

(3) *Adoption assistance may not be paid on behalf of an adoptive child to a biological parent who has been awarded legal custody and/or guardianship of the child.*

H. Annual Redetermination.

(1) – (3) (text unchanged)

(4) [In addition to their most federal tax return, the family shall submit:] *The family shall submit the following documents:*

(a)-(c) (text unchanged)

(d) If the child is 18 years old or older:

(i) [Proof of enrollment and participation in a educational or vocational program;] *Documentation that the child has a mental or physical disability warranting the continuation of assistance; or*

(ii) [Proof of employment of at least 80 hours per month;] *Completing secondary education or a program leading to an equivalent credential; or*

(iii) [Documentation that indicates the child is currently incapable of engaging in these activities due to a documented disability or medical condition.] *Enrolled in an institution which provides post secondary or vocational education; or*

(iv) *Participating in a program or activity designed to promote, or remove barriers to employment; or*

(v) *Employed at least 80 hours per month; or*

(vi) *Incapable of doing any of the above described activities due to a medical condition.*

(5) Suspension.

(a) A local department [may] *shall* suspend the adoption assistance because of the [adoptive family's failure to return the required information for renewal to the department.] *following:*

(i) *the adoptive family's failure to return the required information for renewal to the department;*

(ii) *a child who was adopted re-enters out-of-home care.*

(b) (text unchanged)

(c) If the payment is suspended *due to family's failure to return the required information for renewal to the local department*, the payment [may] *shall* be reinstated on the date the adoptive family provides the required documentation, *and a separate intended action letter must be sent to the family.*

I. Renegotiation of Adoption Assistance.

(1) – (2) (text unchanged)

(3) The renegotiated post adoption assistance amount may not exceed the foster care payment the adoptive parent [would have] received *when* [if] the child *was* [were] in [foster care] out-of-home care.

(4) –(5) (text unchanged)

J. Termination of Adoption Assistance.

(1) (text unchanged).

(2) The adoptive child may continue to receive adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child *has a mental or physical disability warranting the continuation of the assistance; or the child is:*

(a) (text unchanged);

(b) Enrolled in [attending a Maryland Higher Education Commission institution of higher learning or an equivalent] *an institution which provides post-secondary or vocational education; or*

(c) [Enrolled in or attending a vocational training program] *Participating in a program or activity designed to promote, or remove barriers to, employment; or*

(d) [Participating in a program or activity designed to promote, or remove barriers to, employment] *Employed for at least 80 hours per month; or*

(e) [Employed for at least 80 hours per month] *Incapable of doing any of the above described activities due to a medical condition.*

(3) (text unchanged)

.07 Post Adoption Assistance.

A. [A] Post adoption assistance is *state Medicaid benefits and/or* a State-funded monthly payment to adoptive families on behalf of adoptive children who have a condition that would have made them eligible for adoption assistance had the condition been known prior to the finalization of their adoption.

B. (text unchanged)

(1) (text unchanged)

(2) The child has a documented condition that *existed at the time of finalization of the adoption but had not been “discovered or diagnosed”*, and if the condition had been known at the time of the finalization of the adoption it would have made the child eligible for adoption assistance.

C. Payments.

(1) – (5) (text unchanged)

(6) Concurrent Receipt of Benefits or Other Income.

(a) *The family shall notify the Administration if the child receives other benefits while the adoption assistance agreement is in effect.*

[(a)] (b) If a child is eligible for SSI and State-funded post adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the post adoption assistance.

(c) *If the SSI Program does not reduce the SSI grant, the local department of social services shall reduce the amount of the post adoption assistance grant dollar for dollar in the amount of the SSI payment.*

[(b)] (d) If a child receives Social Security benefits, such as survivor's benefits or retirement benefits, or other income, the monthly post adoption assistance [shall] *may* be reduced to reflect this resource.

(7) (text unchanged)

D. –E. (text unchanged)

F. Interstate Adoption.

(1) [The post adoption assistance payment for an eligible Maryland child placed out-of-state shall be made by the State of Maryland, as the state that held guardianship of the child prior to the finalization of the adoption.] *If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that State shall be responsible for entering into the post adoption assistance agreement with the family, provided the child is an eligible child.*

(2) [The post adoption assistance payment may not exceed the foster care payment the parent would have received if the child were in foster care in Maryland, or the applicable board rate in the state of residence, whichever is higher.] *If the State public child welfare agency did not have responsibility for placement and care of a child prior to finalization of the adoption, the post adoption assistance agreement should be applied for and made in the adoptive parents' State of residence.*

[(2)] (3) The post adoption assistance payment [may] *shall* not exceed the applicable board rate in Maryland, or the applicable board rate in the state of residence *while the child was in foster care*, whichever [is] was higher.

[(3)] (4) If the Maryland family and the child move to another state, the post adoption assistance agreement shall remain in effect.

[(4)] The adoptive parents shall be referred by a local department to the appropriate federal Title XIX and Title XX agencies in their state of residence.

(5) The local department shall provide the state of residence with documentation regarding the child's eligibility for Maryland Medicaid and Title XX services.]

[(6)] (5) *In order to protect the interests of the child, a local department shall follow the procedures established by the Interstate Compact on Adoption and Medical Assistance to facilitate the interstate coordination of benefits.*

(a) *The adoptive parents shall be referred by a local department to the appropriate federal Title XIX and Title XX agencies in their state of residence.*

(b) *The local department shall provide the state of residence with documentation regarding the child's eligibility for Maryland Medicaid and Title XX services.*

G. Death of Parents and Dissolution of the Adoption.

(1) (text unchanged)

(a) Received [an] adoption assistance during the child's prior adoption; and

(b) (text unchanged)

(2) (text unchanged)

(a) (text unchanged)

(b) (text unchanged)

(b) (text unchanged)

H. Annual Redetermination.

(1) – (3) (text unchanged)

(4) [In addition to their most recent federal income tax return,] *The family shall submit the following documents:*

(a)-(c) (text unchanged)

(d) If the child is 18 years old or older:

(i) [Proof of enrollment and participation in a educational or vocational program,] *Documentation that the child has a mental or physical disability warranting the continuation of the assistance; or*

(ii) [Proof of employment of at least 80 hours per month; or] *Completing secondary education or a program leading to an equivalent credential; or*

(iii) [Documentation that indicates the child is currently incapable of engaging in these activities due to a documented disability or medical condition.] *Enrolled in an institution which provides post secondary or vocational education; or*

(iv) *Participating in a program or activity designed to promote, or remove barriers to employment; or*
(v) *Employed at least 80 hours per month; or*

(vi) *Incapable of doing any of the above described activities due to a medical condition.*

(5) Suspension.

(a) A local department [may] *shall* suspend the *post* adoption assistance because of the [adoptive family's failure to return the required information for renewal to the department.] *following:*

(i) *the adoptive family's failure to return the required information for renewal to the department;*

(ii) *a child who was adopted re-enters foster care.*

(b) (text unchanged)

(c) *If the payment is suspended due to family's failure to return the required information for renewal to the local department, the payment shall be reinstated on the date the adoptive family provides the required documentation.*

I. Renegotiation of Adoption Assistance.

(1) – (2) (text changed)

(3) The renegotiated post adoption assistance amount may not exceed the foster care payment the adoptive parent [would have] received *when* [if] the child *was* [were] in [foster care] out-of-home care.

(4) – (5) (text unchanged)

J. Termination of *Post* Adoption Assistance.

(1) (text unchanged)

(a) (text unchanged)

(b) (text unchanged)

(c) [The] *An* adoptive [family's parental] *parent's* rights have been terminated;

(d) (text unchanged)

(e) *The child's 18th birthday if the child* [A child has reached their 21st birthday or] does not meet the conditions of [J(1)(f)] *J* (2) of this regulation[; or].

[f] A child is 18 years old or older and is not participating in a vocational or educational program, is not employed at least 80 hours per month, or does not have a documented disability or medical condition that prevents the child from engaging in these activities.]

[(2) At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:]

(a) The intent to terminate the adoption assistance;

(b) A statement of the specific regulation cited as ground for termination, and

(c) A statement describing the adoptive family's right to appeal.]

(2) *The adoptive child may continue to receive post adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child has a mental or physical disability warranting the continuation of the assistance; or the child is*

(a) *Completing secondary education or a program leading to an equivalent credential; or*

(b) *Enrolled in an institution which provides post-secondary or vocational education; or*

(c) *Participating in a program or activity designed to promote, or remove barriers to, employment;*

(d) *Employed at least 80 hours per month; or*

(e) *Incapable of doing any of the above described activities due to a medical condition.*

(3) *At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:*

(a) *The intent to terminate the adoption assistance;*

(b) *A statement of the specific regulation cited as ground for termination, and*

(c) *A statement describing the adoptive family's right to appeal*

.08 [Subsidies] Adoption Assistance for Nonrecurring Expenses of Adoption.

A. In a domestic adoption, an adoptive parent of [an eligible applicable] *a child who meets the special needs criteria* [or nonapplicable child] as delineated in Regulation .05(D)(4) or (E)(3) of this chapter may be eligible for reimbursement for certain nonrecurring expenses directly related to the legal process of adoption.

B. In an intercountry adoption, an adoptive parent of a child who meets the definition of a child with special needs may be eligible for reimbursement of certain nonrecurring expenses directly related to the legal process of adoption [provided] *if* the child is:

(1) [15] 5 years old or younger in *federal* fiscal year [2010] 2015;

(2) [13] 3 years old or younger in *federal* fiscal year [2011] 2016;

(3) [11] *1* year old or younger in *federal* fiscal year [2012] 2017.[with the age decreasing by 2 years each year until October 2017 when such children will no longer be eligible for this subsidy.] *As of October 1, 2017, children in an intercountry adoption will not be eligible for this subsidy.*

C. – D. (text unchanged)

E. A lump sum maximum payment [of] *up to* \$2,000 may be paid to *or on behalf of* the adoptive parents for documented expenses related to the legal process of adopting a child, including:

(1)-(4) (text unchanged)

F. (text unchanged)

G. (1)-(4) (text unchanged)

(5). [Subject to] [a] Approved[al] by the Administration.

.09 Right to Appeal.

A. (text unchanged)

B. (text unchanged)