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PROGRAM INSTRUCTION

TO: State and Territorial Agencies Administering or Supervising the Administration of title IV-B and title IV-E of the Social Security Act

SUBJECT: Procedures for the Implementation of the Adoption Promotion Act of 2003 (P.L. 108-145)

LEGAL AND RELATED

REFERENCES: Sections 473(a)(1)(B)(ii), 473A, 474 and 479 of the Social Security Act the Act); ACYF-IM-CB-04-04

PURPOSE: This *Program Instruction* (PI) provides the States with information about adoption incentive payments authorized by the Adoption Promotion Act of 2003, establishing adoption baseline data, calculating awards, reporting requirements and other aspects of implementing the adoption incentive payment program.

INFORMATION:

The Adoption Promotion Act of 2003 reauthorizes the adoption incentive payment program under part E of title IV of the Social Security Act. The statute provides for payment of incentive funds to States that increase the number of children adopted in specific circumstances. The 2003 amendments maintain an emphasis on children with special needs and focus attention on promoting adoption of older children. These children tend to stay in foster care for longer periods because their special circumstances present challenges to placing them in permanent placements.

States must exceed a baseline number of adoptions to qualify for incentive funds. Under the 2003 amendments, incentive funds are awarded to States if they exceed the overall foster child adoption, older child adoption or special needs adoption baselines. The funds will only be paid to the State agency for *finalized* adoptions. Up to \$43 million for incentive payments to eligible States is authorized for appropriation for each of Federal fiscal years 2004 through 2008. The amendments became effective on October 1, 2003 and affect how States earn incentive funds for adoptions finalized during or after FY 2003.

Statutory Requirements

A State is eligible for an adoption incentive payment for a fiscal year if, in accordance with section 473A(b) of the Social Security Act (the Act):

- the State has an approved plan under title IV-E;
- the number of foster child adoptions from the public child welfare system finalized during the fiscal year exceeds the baseline for that fiscal year;

or

the number of older child adoptions finalized during the fiscal year exceeds the baseline for that fiscal year;

- the State submits Adoption and Foster Care Analysis and Reporting System (AFCARS) data in compliance with Federal regulations, enabling ACF to calculate the number of children adopted in FY 2003 through FY 2007;
- the State, for each year FY 2003 through FY 2007, provides health insurance coverage to any special needs child for whom there is an adoption assistance agreement, under section 473(c) of the Act, between the State and the child's parent(s).

Section 473A of the Act provides for incentive payments for a fiscal year in accordance with the following (per section 473A(d)):

- \$4000 for every foster child adopted over the baseline for public agency adoptions;
- \$4000 for every older child adopted over the baseline for children age 9 and older; and
- \$2000 for every young child with special needs adopted over the baseline for children under age 9 with special needs.

To qualify for the \$2000 incentive payment, the State must exceed its baseline for either the foster child adoptions or older child adoptions. A State may receive an incentive payment for each category of finalized adoptions, if the State exceeds the established baseline for each adoption group. The amount of incentive payments to States will be determined by the amount of funds appropriated annually by Congress. If Congress does not appropriate sufficient funds, these payments will be prorated.

Program Definitions

The following defines the terms used in the Federal statutes at section 473A(g) of the Act and this PI to establish baselines and provide adoption incentive funds:

Adoption Baseline--- The highest number of adoptions finalized in the State during a prior fiscal year from which to determine the number of adoptions the State needs to qualify for

incentive payments in a given fiscal year. (Refer to the matrix for establishing baselines on page 4 of this PI).

Fiscal Year (FY)--- The Federal fiscal year that covers the period October 1 through September 30.

Foster Child Adoption--- The finalized adoption of a child, who at the time of adoptive placement, was in public foster care under the placement and care responsibility of the State child welfare agency in accordance with 45 CFR 1355.20. This includes any child who may have been in foster care consistent with this definition, but whose foster care or adoption placement was supervised by another public or private agency under an agreement or contract with the State child welfare agency.

FY 2003 Foster Child Adoption Baseline--- The total number of public foster care adoptions in the State for fiscal year 2002. This baseline includes the finalized adoption of children who receive adoption assistance under section 473 of the Act (title IV-E adoption assistance) and those who do not receive such assistance (non title IV-E adoption assistance).

FY 2004 – FFY 2007 Foster Child Baselines--- For each fiscal year, FY 2004 – FY 2007, the baseline will be established from the previous year that has the largest number of public foster care adoptions in the State that begins with FY 2002 and ends with the fiscal year preceding the subsequent fiscal year based on data reported to AFCARS. This baseline includes the finalized adoption of children who receive title IV-E adoption assistance and those who do not receive title IV-E adoption assistance.

Older Child Adoption--- The finalized adoption of a child age nine (9) and older who, at the time of the adoptive placement, was in public foster care under the supervision of the State *or* was the subject of a title IV-E adoption assistance agreement between the State child welfare agency and the child’s adoptive parent(s). This also includes the finalized adoption of a child who, at the time of adoptive placement, was placed by an entity other than the State child welfare agency and became the subject of a title IV-E adoption assistance agreement between the State child welfare agency and the child’s adoptive parent(s). For the purposes of this PI, these adoptions are referred to as *other adoptions*.

FY 2003 Older Child Adoption Baseline--- The number of children, age 9 or older, adopted in the State during fiscal year 2002. This baseline includes the finalized, public foster care adoptions for older children who receive title IV-E adoption assistance and those who do not receive such assistance. Or, the baseline may include the finalized other adoptions reported to AFCARS for older children who receive title IV-E adoption assistance.

FY 2004 – FFY 2007 Older Child Adoption Baselines--- For each fiscal year, FY 2004 – FY 2007, the baseline will be established from the previous year that has the largest number of child age 9 or older adoptions that begins with FY 2002 and ends with the fiscal year preceding the subsequent fiscal year. This baseline includes the finalized, public foster care adoptions for older children who receive title IV-E adoption assistance and those who do not receive such assistance, and finalized, other adoptions reported to AFCARS for older children who receive title IV-E adoption assistance.

Special Needs Adoption--- The finalized adoption of a child for whom an adoption assistance agreement is in effect under section 473, Part E, title IV of the Social Security Act.

FY 2003 Special Needs Adoption Baseline--- The number of special needs adoptions of children under age 9 for fiscal year 2002. This baseline includes the finalized, public foster care adoptions for children under age 9 who receive title IV-E adoption assistance and finalized, other adoptions reported to AFCARS for children under age 9 who receive adoption assistance.

FY 2004 – FFY 2007 Special Needs Adoption Baselines--- For each fiscal year, FY 2004 – FY 2007, the baseline will be established from the previous year that has the largest number of special needs adoptions of children under age 9 that begins with FY 2002 and ends with the fiscal year preceding the subsequent fiscal year. This baseline includes the finalized, public foster care adoptions for children under age 9 who receive title IV-E adoption assistance and finalized, other adoptions reported to AFCARS for children under age 9 who receive adoption assistance.

Establishing Baselines

The ACF establishes adoption baselines for each State based on AFCARS data submitted by the State to report the number of adoptions finalized during a fiscal year. The process for establishing adoption incentive baselines is based on the following principles:

- AFCARS is the sole source of data to determine State baselines. If a State does not provide to ACF the AFCARS data on the number of finalized adoptions in each category for a fiscal year, it will not receive incentive payments for the category for which it did not submit data for that fiscal year.
- AFCARS data on finalized adoptions will be subject to ACF verification and reconciliation to identify and remove duplicate records. This will assist ACF in determining accurate baseline and incentive payment levels.
- Separate baselines will be established for: 1) total number of foster child adoptions; 2) the number of special needs adoptions of children under age 9; and 3) the number of older child adoptions.
- The foster child baseline includes finalized adoptions of all public foster care adoptions. The special needs, under age 9, baseline includes finalized, public foster care adoptions and other adoptions reported to AFCARS for children with title IV-E adoption assistance agreements. The older child baseline includes finalized adoptions of all public foster care adoptions and other adoptions reported to AFCARS for children with title IV-E adoption assistance.
- The FY 2003 baseline data for all three groups are FY 2002 adoptions. **A State listing of FY 2002 adoption baselines for each category is included in Attachment A of this PI.**
- For subsequent fiscal years, the baseline will be set at the highest number of adoptions for each group that occurred in the State in any year between FY 2002 and the previous year.

Thus, to receive incentive payments for qualifying adoptions finalized in FY 2004, the State must exceed the baseline that is the higher of FY 2002 and FY 2003 adoptions for an incentive group of adopted children.

The following illustrates how ACF determines the baseline year for FY 2003 through FY 2007.

Baseline Matrix

Program Year	Baseline Years ¹	Earning Year	Award Year
I	FY 2002	FY 2003	FY 2004
II	Higher of FY 2002 – FY 2003	FY 2004	FY 2005
III	Highest of FY 2002 – FY 2004	FY 2005	FY 2006
IV	Highest of FY 2002 – FY 2005	FY 2006	FY 2007
V	Highest of FY 2002 – FY 2006	FY 2007	FY 2008

¹A baseline is set for each group of adopted children- foster child, special needs under age 9, and older child.

Calculating Incentive Awards

Incentive funds earned by States within a fiscal year (earning year) are paid to States the subsequent fiscal year (award year). This is because the actual amount of incentive funds cannot be calculated by ACF until each State's AFCARS data is submitted after the end of the fiscal year for which the funds are awarded. Thus, incentive payments earned in FY 2003 would be paid to States in FY 2004 after the AFCARS submissions for FY 2003 are processed and reconciled by ACF. Payments may not occur until the latter part of the fiscal year.

All finalized adoption data for an earning year must be reported to ACF no later than **May 15** of the subsequent fiscal year. *Thus, AFCARS data for FY 2003 must be submitted by midnight, May 15, 2004.* Adoption data not received by the deadline will not be used to calculate adoption incentive awards or baselines. The AFCARS data elements required to calculate incentive payments are listed below. *Attachment B*, of this PI, identifies the specific AFCARS data elements used by ACF to process and determine payments for each category of finalized adoption.

- 01 State
- 02 Report period end date
- 03 Record number
- 04 State agency involvement
- 05 Date of birth
- 21 Date adoption legalized
- 34 Child placed by
- 37 Adoption assistance (title IV-E)

The ACF reserves the right to adjust awards to States, as it deems necessary, based on AFCARS data reconciliation, fiscal year appropriation and the statutory payment formula. The ACF will recover funds paid to a State as adoption incentive payments, if ACF determines that the AFCARS data submitted by the State reporting the number of finalized adoptions was in error.

The following matrix illustrates how the statutory payment structure works in calculating State incentive awards.

State	Baselines			Finalized Adoptions ¹			Award Amounts			Totals
	Foster ² Child	Special ³ Needs	Older ⁴ Child	Foster ² Child	Special ³ Needs	Older ⁴ Child	Foster ² Child	Special ³ Needs	Older ⁴ Child	
A	250	70	80	255	75	85	\$20,000	\$10,000	\$20,000	\$50,000 ⁵
B	250	70	80	255	75	75	\$20,000	\$10,000	\$0	\$30,000
C	250	70	80	255	65	75	\$20,000	\$0	\$0	\$20,000
D	250	70	80	245	75	75	\$0	\$0	\$0	\$0 ⁶
E	250	70	80	245	65	75	\$0	\$0	\$0	\$0 ⁷
F	250	70	80	245	75	85	\$0	\$10,000	\$20,000	\$30,000
G	250	70	80	245	65	85	\$0	\$0	\$20,000	\$20,000

¹ Bold number indicates the baseline was exceeded.

² IV-E & non IV-E eligible public foster care adoptions

³ IV-E eligible public foster care & other adoptions, child under age 9

⁴ IV-E & non IV-E eligible, public foster care & IV-E eligible other adoptions, child age 9 and older

⁵ Baseline exceeded for the 3 adoption groups

⁶ Baseline must be exceeded for either foster child adoptions or older child adoptions to qualify for special needs award

⁷ Baseline not exceeded for an adoption group

Reporting and Expenditure Requirements

State expenditure of awarded adoption incentive payments is limited to the costs for services (including post-adoption services) and activities allowable under title IV-B and title IV-E of the Social Security Act. However, incentive funds must be spent by the end of the fiscal year following the fiscal year in which they were awarded, regardless of when the funds are received during the award year. This means that funds earned in FY 2003 and awarded in FY 2004 must be fully liquidated (not just obligated) by September 30, 2005. Funds appropriated by Congress for the program will not be available for expenditure after FY 2008. Incentive funds expended by States may not be used as State or local matching funds for Federal financial participation.

States must identify in the *Annual Progress and Services Report (APSR)* the services they provided to children and families as a result of utilizing the adoption awards. If, within a fiscal year, funds were used from more than one (1) fiscal year's award, the applicable CFSP or APSR must specify the services provided with each year's funds.

Actual disbursements of adoption incentive payments by States must be reported on Form SF-269, Financial Status Report and submitted to:

Division of Formula, Entitlement and Block Grants
Administration for Children and Families

Division of Formula, Entitlement and Block Grants
Administration for Children and Families
370 L' Enfant Promenade SW, 6th Floor
Washington, DC 20447

A copy of Form 269 also should be sent to the appropriate ACF Regional Office. The first report is due 30 days after the end of the twelve-month budget period. The final report is due 90 days after the end of the fiscal year following the award year (December 31).

INQUIRIES TO: ACF Regional Administrators

Joan E. Ohl
Commissioner
Administration on Children, Youth,
and Families

Attachments

**FY 2002 Baselines
Adoption Incentive Payment Program**

State	Foster Child ¹	Special Needs ²	Older Child ³
Alabama	249	68	80
Alaska	190	106	54
Arizona	788	338	228
Arkansas	295	50	115
California	8565	5454	2248
Colorado	834	337	251
Connecticut	535	260	179
Delaware	133	47	52
Florida	2237	860	652
Georgia	1071	398	343
Hawaii	349	142	78
Idaho	92	50	28
Illinois	3585	2075	1289
Indiana	881	267	345
Iowa	882	308	280
Kansas	454	177	166
Kentucky	551	237	220
Louisiana	466	230	154
Maine	297	137	109
Maryland	918	507	303
Massachusetts	808	291	233
Michigan	2845	1443	991
Minnesota	626	368	185
Mississippi	175	0	68
Missouri	1273	587	427
Montana	244	108	85
Nebraska	294	103	83
Nevada	251	114	70
New Hampshire	114	63	48
New Jersey	1370	849	330
New Mexico	272	155	94
New York	3160	1537	1374
North Carolina	1324	548	440

¹IV-E & non IV-E eligible public foster care adoptions

²IV-E eligible public foster care & other adoptions, child under age 9

³IV-E & non IV-E eligible public foster care & IV-E eligible other adoptions, child age 9 and older

**FY 2002 Baselines
Adoption Incentive Payment Program**

State	Foster Child ¹	Special Needs ²	Older Child ³
North Dakota	119	35	23
Ohio	2185	1437	810
Oklahoma	985	206	315
Oregon	1115	650	294
Pennsylvania	1993	774	721
Rhode Island	256	122	70
South Carolina	340	133	110
South Dakota	142	92	32
Tennessee	758	341	377
Texas	2295	996	512
Utah	344	111	68
Vermont	133	77	50
Virginia	417	194	159
Washington	1027	713	206
Washington DC	195	53	114
West Virginia	361	146	136
Wisconsin	939	513	312
Wyoming	44	21	16
Puerto Rico	167	15	45

¹IV-E & non IV-E eligible public foster care adoptions

²IV-E eligible public foster care & other adoptions, child under age 9

³IV-E & non IV-E eligible public foster care and IV-E eligible other adoptions, child age 9 and older

**AFCARS Data Elements for
Calculating Adoption Awards**

	Foster Child ¹	Special Needs ²	Older Child ³
Elements			
1. State	X	X	X
4. State Involvement		X	X
5. Date of Birth		X	X
21. Date Adoption Legalized	X	X	X
34. Child Placed By	X	X	X
37. Adoption Assistance		X	X

¹IV-E & non IV-E eligible public foster care adoptions

²IV-E eligible public foster care & other adoptions, child under age 9

³IV-E & non IV-E eligible public foster care & IV-E eligible other adoptions, child age 9 and older