

§ 1356.50

Federal reimbursement is available at a 50 percent matching rate, for State expenditures up to \$2,000, for any adoptive placement.

(2) States may set a reasonable lower maximum which must be based on reasonable charges, consistent with State and local practices, for special needs adoptions within the State. The basis for setting a lower maximum must be documented and available for public inspection.

(3) In cases where siblings are placed and adopted, either separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

(g) Federal financial participation for nonrecurring expenses of adoption is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made either directly by the State agency or through another public or licensed nonprofit private agency.

(h) When the adoption of the child involves interstate placement, the State that enters into an adoption assistance agreement under section 473(a)(1)(B)(ii) of the Act or under a State subsidy program will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other Federal or State adoption assistance, the State in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the requirements of section 473(c).

(i) The term "nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or other funds. "Other expenses which are directly related to the legal adoption of a child with special needs" means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for

45 CFR Ch. XIII (10-1-96 Edition)

payment. Such costs may include the adoption study, including health and psychological examination, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

(j) When State statutes must be amended in order to reimburse parents for nonrecurring expenses in the adoption of eligible children, legislation must be enacted before the close of the second general session following publication of the final rule and must apply retroactively to January 1, 1987. Failure to honor all eligible claims will be considered non-compliance by the State with Title IV-E of the Act.

(k) A State expenditure is considered made in the quarter during which the payment was made by a State agency to a private nonprofit agency, individual or vendor payee.

[53 FR 50220, Dec. 14, 1988]

§ 1356.50 Withholding of funds for non-compliance with the approved title IV-E State plan.

(a) To be in compliance with the title IV-E State plan requirements, a State must meet the requirements of the Act and 45 CFR 1356.20, 1356.21 and 1356.40 of this part.

(b) To be in compliance with the title IV-E State plan requirements, a State that chooses to claim FFP for voluntary placements must meet the requirements of the Act, 45 CFR 1356.30 and paragraph (a) of this section; and

(c) For purposes of this section, the provisions of 45 CFR part 213, Practice and Procedure for Hearings to States on Conformity of Public Assistance Plans to Federal Requirements, apply.

[48 FR 23117, May 23, 1983]

§ 1356.60 Fiscal requirements (title IV-E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments.* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV-E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with 45 CFR 1356.20 through 1356.30 of this part, section 472 of the Act and section 102(d) of Pub. L. 96-272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with 45 CFR 1356.20 and 1356.40 and sections 473 and 475(3) of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act, Definitions, and pertinent regulations as promulgated by the Secretary, or his designee.

(b) *Federal matching funds for State and local training for foster care and adoption assistance under title IV-E.* (1) Federal financial participation is available at the rate of seventy-five percent (75%) in the costs of training personnel employed or preparing for employment by the State or local agency administering the plan.

(2) All training activities and costs funded under title IV-E shall be included in the State agency's training plan for title IV-B.

(3) Short and long term training at educational institutions and in-service training may be provided in accordance with the provisions of §§ 235.63 through 235.66(a) of this title.

(c) *Federal matching funds for other State and local administrative expenditures for foster care and adoption assistance under title IV-E.* Federal financial participation is available at the rate of fifty percent (50%) for administrative expenditures necessary for the proper and efficient administration of the title IV-E State plan. The State's cost allocation plan shall identify which costs are allocated and claimed under this program.

(1) The determination and redetermination of eligibility, fair hearings and appeals, rate setting and other costs directly related only to the administration of the foster care program under this part are deemed allowable administrative costs under this paragraph. They may not be claimed under any other section or Federal program.

(2) The following are examples of allowable administrative costs necessary

for the administration of the foster care program:

- (i) Referral to services;
- (ii) Preparation for and participation in judicial determinations;
- (iii) Placement of the child;
- (iv) Development of the case plan;
- (v) Case reviews;
- (vi) Case management and supervision;
- (vii) Recruitment and licensing of foster homes and institutions;
- (viii) Rate setting; and
- (ix) A proportionate share of related agency overhead.
- (x) Costs related to data collection and reporting.

(3) Allowable administrative costs do not include the costs of social services provided to the child, the child's family or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions.

(4) Foster and adoptive parents, and staff of licensed or approved child care institutions providing foster care under this part shall be eligible for short-term training at the initiation of or during their provision of care. FFP directly related to such training shall be limited to travel and per diem.

(d) *Cost of the data collection system.* (1) Costs related to data collection system initiation, implementation and operation may be charged as an administrative cost of title IV-E at the 50 percent matching rate subject to the restrictions in paragraph (d) (2) of this section

(2) For information systems used for purposes other than those specified by section 479 of the Act, costs must be allocated and must bear the same ratio as the foster care and adoption population bears to the total population contained in the information system as verified by reports from all other programs included in the system.

(e) *Federal matching funds for SACWIS.* All expenditures of a State to plan, design, develop, install and operate the Statewide automated child welfare information system approved under § 1355.52 of this chapter, shall be treated as necessary for the proper and efficient administration of the State plan without regard to whether the system may be used with respect to

§ 1356.65

foster or adoptive children other than those on behalf of whom foster care maintenance or adoption assistance payments may be made under this part.

(Approved by the Office of Management and Budget under control numbers 0980-0130 and 0980-0131)

[47 FR 30925, July 15, 1982, as amended at 48 FR 23117, May 23, 1983; 53 FR 50221, Dec. 14, 1988; 58 FR 67938, 67947, Dec. 22, 1993]

§ 1356.65 State foster care allotment (title IV-E).

The State allotment for foster care under this part of Fiscal Years 1981 through 1984 shall be the greater amount as determined under paragraph (a) or (b) of this section; or, at the option of the State, under paragraph (c) of this section. This determination is made without regard to the allotment for any prior fiscal year except as specified under paragraph (c)(3) of this section. The State need not select the same option each year. The allotment is a single dollar amount, limiting Federal funds reimbursed to a State for foster care payments and related administrative expenditures (including training).

(a) The first method provides for the calculation of the base amount and adjustments for each fiscal year as follows:

(1) For purposes of determining allotments for later years, for Fiscal Year 1980, the State's allotment is the base amount increased by 21.2%.

(2) For each of the Fiscal Years 1981 through 1984, the allotment for the State shall be an amount equal to the State's allotment for the preceding fiscal year, increased or decreased by twice the change (but not more than 10%) in the percentage of the Consumer Price Index, prepared by the U.S. Department of Labor, and used to determine the cost of living adjustments for Social Security benefits under section 215(i) of the Act, Cost of Living Increases in Benefits. For this calculation, second quarter data of the preceding fiscal year shall be compared to those for the second quarter of the second preceding fiscal year. The arithmetic mean for the three months of the second quarter shall be used to estab-

45 CFR Ch. XIII (10-1-96 Edition)

lish the Consumer Price Index for this quarter.

(3) The base amount in paragraph (a)(1) of this section, is calculated using the following formula: Maintenance payments plus attributable administrative expenditures plus attributable training expenditures. For the purposes of this formula:

(i) *Maintenance payments* are determined by:

(A) The amount of Federal funds that have been or may be paid on behalf of allowable claims for foster care maintenance payments for FY 1978 submitted to DHHS in accordance with section 306 of Pub. L. 96-272 (94 Stat. 530); and

(B) The amount of Federal funds that would have been paid for allowable claims on behalf of children meeting all requirements of section 408 of the Act for FY 1978 except that the State, on a Statewide basis, did not make such payments under State law, regulation or policy solely because the foster care was provided by a relative(s) of a child.

(ii) *Attributable administrative expenditures* means State expenditures for Fiscal Year 1978 attributable to the performance of activities required under section 408 of the Act for children for whom maintenance payments are included under paragraphs (a)(3)(i) (A) and (B) of this section, regardless of whether payment for the administrative expenditures might have been made under section 403 of the Act. Expenditures which may be included are limited to costs of conducting for those children: eligibility determination and redetermination, quality control, fair hearings and appeals, agency activities in judicial determination, placement, case review, case management and supervision, rate-setting, recruitment of foster care homes and institutions, licensing and a proportionate share of general related agency overhead. The amount of these expenditures is determined by one of the following three methods:

(A) By actual administrative expenditures attributable to the provision of foster care maintenance payments for Fiscal Year 1978, multiplied by 50%, if a State submits a report of these expenditures which is satisfactory to the