

§ 1357.32

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV-B, subpart 1 allotment may include foster care maintenance expenditures in any amount.

(f) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV-B may not be used for the purchase or construction of facilities.

(g) *Maintenance of effort.* (1) A State may not receive an amount of Federal funds under title IV-B in excess of the Federal payment made in FY 1979 under title IV-B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV-B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV-B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV-B greater than the amount of title IV-B, subpart 1 funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (g) (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (g) (1) and (2) of this section for the fiscal year for which application for funds is being made. Records verifying the required certification shall be maintained by

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the State and made available to the Secretary as necessary to confirm compliance with this section.

(h) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV-B, subpart 1 allotment will not be required, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does not certify by a date fixed by the Commissioner that it will be able to expend during the period stated in paragraph (i) of this section all of the funds available to it under its title IV-B, subpart 1 allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when it is determined that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) the State will be able to expend the additional funds during the period stated in paragraph (i) of this section.

(i) *Time limit on expenditures.* Funds under title IV-B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

[61 FR 58660, Nov. 18, 1996]

§ 1357.32 State fiscal requirements (title IV-B, subpart 2, family preservation and family support services).

(a) *Scope.* The requirements of this section apply to all funds allocated to States under title IV-B, subpart 2, of the Act.

(b) *Allotments.* The annual allotment to each State shall be made in accordance with section 433 of the Act.

(c) *Payments.* Payments to each State will be made in accordance with section 434 of the Act.

(d) *Matching or cost sharing.* Funds used to provide services in FY 1994 and in subsequent years will be federally reimbursed at 75 percent of allowable expenditures. (This is the same Federal financial participation rate as title IV-B, subpart 1.) Federal funds, however, will not exceed the amount of the State's allotment.

(1) The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(2) Except as provided by Federal statute, other Federal funds may not be used to meet the matching requirement.

(e) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV-B may not be used for the purchase or construction of facilities.

(f) *Maintenance of effort.* States may not use the Federal funds under title IV-B, subpart 2, to supplant Federal or non-Federal funds for existing family preservation and family support services. For the purpose of implementing this requirement, "non-Federal funds" means State funds. ACF will collect information annually from each State on expenditures for family support and family preservation using the State fiscal year 1992 as the base year.

(g) *Time limits on expenditures.* Funds must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

(h) *Administrative costs.* (1) States claiming Federal financial participation for services provided in FY 1994 and subsequent years may not claim more than 10 percent of expenditures under subpart 2 for administrative costs. There is no limit on the percentage of administrative costs which may be reported as State match.

(2) For the purposes of title IV-B, subpart 2, "administrative costs" are costs of auxiliary functions as identified through as agency's accounting system which are:

(i) Allocable (in accordance with the agency's approved cost allocation plan) to the title IV-B, subpart 2 program cost centers;

(ii) necessary to sustain the direct effort involved in administering the State plan for title IV-B, subpart 2, or an activity providing service to the program; and

(iii) centralized in the grantee department or in some other agency, and may include but are not limited to the following: Procurement; payroll; personnel functions; management, maintenance and operation of space and property; data processing and com-

puter services; accounting; budgeting; auditing.

(3) Program costs are costs, other than administrative costs, incurred in connection with developing and implementing the CFSP (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluations, supervision).

[61 FR 58661, Nov. 18, 1996]

§ 1357.40 Direct payments to Indian Tribal Organizations (title IV-B, subpart 1, child welfare services).

(a) *Who may apply for direct funding?* Any Indian Tribal Organization (ITO) that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible Tribal organizations authorized by the membership of the Tribes to act for them is eligible to apply for direct funding if the ITO, consortium or group has a plan for child welfare services that is jointly developed by the ITO and the Department.

(b) *Title IV-B Child and Family Services Plan (CFSP).* (1) In order to receive funds under title IV-B, subpart 1, beginning in FY 1995, the Indian Tribe or Tribal organization must have in effect an approved five-year child and family services plan that meets the applicable requirements of § 1357.15 of this part.

(2) The Indian Tribe or Tribal organization must also comply with section 422(b)(1-8) of the Act; 45 CFR part 1355 (except that the requirements in § 1355.30 for a single Tribal agency and Governor's review of the CFSP do not apply); and other applicable requirements of §§ 1357.10 and 1357.16.

(c) *Information related to the requirements of Section 422(b)(9) of the Act.* The following information must be submitted with the assurances required to be eligible for title IV-B, subpart 1 funds:

(1) A description of the arrangements, jointly developed with the State, made for the provision of the child welfare services and protections in section 422(b)(9) to Indian children under both State and Tribal jurisdiction;

(2) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and those awaiting adoption;