

§ 672. Foster care maintenance payments program

(a) In general

(1) Eligibility

Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) Removal and foster care placement requirements

The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—

(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 671(a)(15) of this title for a child have been made;

(B) the child's placement and care are the responsibility of—

(i) the State agency administering the State plan approved under section 671 of this title;

(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; or

(iii) an Indian tribe or a tribal organization (as defined in section 679c(a) of this title) or a tribal consortium that has a plan approved under section 671 of this title in accordance with section 679c of this title; and

(C) the child has been placed in a foster family home or child-care institution.

(3) AFDC eligibility requirement

(A) In general

A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 602 of this title (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in

clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) Resources determination

For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 602(a)(7)(B) of this title).

(4) Eligibility of certain alien children

Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.], if the child is an alien disqualified under section 1255a(h) or 1160(f) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Additional qualifications

Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" (as defined in section 675(4) of this title).

(c) "Foster family home" and "child-care institution" defined

For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term "child-care institution" means a private child-care institution, or a public child-

care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Children removed from their homes pursuant to voluntary placement agreements

Notwithstanding any other provision of this subchapter, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a) of this section, only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 622(b)(8) of this title.

(e) Placements in best interest of child

No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) of this section and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) "Voluntary placement" and "voluntary placement agreement" defined

For the purposes of this part and part B of this subchapter, (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) Revocation of voluntary placement agreement

In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a) of this section, and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h) Aid for dependent children; assistance for minor children in needy families

(1) For purposes of subchapter XIX of this chapter, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this subchapter (as so in effect). For purposes of division A¹ of subchapter XX of this chapter, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this subchapter and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) Administrative costs associated with otherwise eligible children not in licensed foster care settings

Expenditures by a State that would be considered administrative expenditures for purposes of section 674(a)(3) of this title if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

¹ See References in Text note below.

(A) reasonable efforts are being made in accordance with section 671(a)(15) of this title to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

(Aug. 14, 1935, ch. 531, title IV, § 472, as added and amended Pub. L. 96-272, title I, §§ 101(a)(1), 102(a)(1), (2), June 17, 1980, 94 Stat. 503, 513, 514; Pub. L. 99-603, title II, § 201(b)(2)(A), title III, §§ 302(b)(2), 303(e)(2), Nov. 6, 1986, 100 Stat. 3403, 3422, 3431; Pub. L. 100-203, title IX, §§ 9133(b)(2), 9139(a), Dec. 22, 1987, 101 Stat. 1330-314, 1330-321; Pub. L. 103-432, title II, § 202(d)(3), Oct. 31, 1994, 108 Stat. 4454; Pub. L. 104-193, title I, § 108(d)(3), (4), title V, § 501, Aug. 22, 1996, 110 Stat. 2166, 2277; Pub. L. 105-33, title V, §§ 5513(b)(1), (2), 5592(b), Aug. 5, 1997, 111 Stat. 620, 644; Pub. L. 105-89, title I, § 101(c), Nov. 19, 1997, 111 Stat. 2117; Pub. L. 106-169, title I, § 111, Dec. 14, 1999, 113 Stat. 1829; Pub. L. 109-113, § 2, Nov. 22, 2005, 119 Stat. 2371; Pub. L. 109-171, title VII, §§ 7403(a), 7404(a), Feb. 8, 2006, 120 Stat. 151; Pub. L. 109-288, § 6(f)(6), Sept. 28, 2006, 120 Stat. 1247; Pub. L. 110-351, title II, § 201(b), title III, § 301(a)(2), Oct. 7, 2008, 122 Stat. 3958, 3967; Pub. L. 111-148, title VI, § 6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803.)

REFERENCES IN TEXT

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(4), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§ 1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

Division A of subchapter XX, referred to in subsec. (h)(1), was in the original a reference to subtitle 1 of title XX, which was translated as if referring to subtitle A of title XX of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XX of this chapter, does not contain a subtitle 1.

AMENDMENTS

2010—Subsec. (h)(1). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Subsec. (a)(2)(B)(iii). Pub. L. 110-351, § 301(a)(2), added cl. (iii).

Subsec. (c)(2). Pub. L. 110-351, § 201(b), inserted “except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations,” before “but the term”.

2006—Subsec. (a). Pub. L. 109-171, § 7404(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to qualifying children for foster care maintenance payments.

Subsec. (d). Pub. L. 109-288 substituted “622(b)(8)” for “622(b)(10)”.

Subsec. (i). Pub. L. 109-171, § 7403(a), added subsec. (i).

2005—Subsec. (b). Pub. L. 109-113 struck out “non-profit” before “private” in pars. (1) and (2).

1999—Subsec. (a). Pub. L. 106-169 inserted at end “In determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered to be a child whose resources have a combined value of not more

than \$1,000 (or such lower amount as the State may determine for purposes of such section 602(a)(7)(B) of this title).

1997—Subsec. (a). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in introductory provisions.

Subsec. (a)(1). Pub. L. 105-89 inserted “for a child” before “have been made;”.

Subsec. (a)(4). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in subpars. (A) and (B).

Subsec. (d). Pub. L. 105-33, § 5592(b), substituted “section 622(b)(10)” for “section 622(b)(9)”.

Subsec. (h)(1). Pub. L. 105-33, § 5513(b)(2), substituted “July 16, 1996” for “June 1, 1995”.

1996—Subsec. (a). Pub. L. 104-193, § 108(d)(3)(A), in introductory provisions, substituted “would have met the requirements” for “would meet the requirements” and inserted “(as such sections were in effect on June 1, 1995)” after “section 607 of this title” and “(as so in effect)” after “section 606(a) of this title”.

Subsec. (a)(4)(A). Pub. L. 104-193, § 108(d)(3)(B)(i), substituted “would have received aid” for “received aid” and inserted “(as in effect on June 1, 1995)” after “section 602 of this title”.

Subsec. (a)(4)(B)(ii). Pub. L. 104-193, § 108(d)(3)(B)(ii), inserted “(as in effect on June 1, 1995)” after “section 606(a) of this title”.

Subsec. (c)(2). Pub. L. 104-193, § 501, struck out “non-profit” before “private child-care institution.”

Subsec. (h). Pub. L. 104-193, § 108(d)(4), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.”

1994—Subsec. (d). Pub. L. 103-432 substituted “section 622(b)(9) of this title” for “section 627(b) of this title”.

1987—Subsec. (a). Pub. L. 100-203, § 9139(a), substituted “section 673(a)(2)(B) of this title” for “section 673(a)(1)(B) of this title”.

Subsec. (h). Pub. L. 100-203, § 9133(b)(2), inserted sentence at end.

1986—Subsec. (a). Pub. L. 99-603, § 303(e)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1161(d)(7) of title 8.

Pub. L. 99-603, § 302(b)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1160(f) of title 8.

Pub. L. 99-603, § 201(b)(2)(A), inserted closing provisions: “In any case where the child is an alien disqualified under section 1255a(h) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 673(a)(1)(B) of this title), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.”

1980—Subsec. (a). Pub. L. 96-272, § 102(a)(1), inserted provisions relating to voluntary placement agreements entered into by a child’s parent or legal guardian.

Subsecs. (d) to (h). Pub. L. 96-272, § 102(a)(2), added subsecs. (d) to (g). Former subsec. (d) was redesignated (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-351, title II, § 201(d), Oct. 7, 2008, 122 Stat. 3959, provided that: “The amendments made by this

section [amending this section and sections 673 and 675 of this title] shall take effect on October 1, 2010.”

Amendment by section 301(a)(2) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

Amendment by section 5513(b)(1), (2) of Pub. L. 105-33 effective as if included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 108 became law, see section 5518(b) of Pub. L. 105-33, set out as a note under section 652 of this title.

Amendment by section 5592(b) of Pub. L. 105-33 effective as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5593 of Pub. L. 105-33, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 108(d)(3), (4) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective with respect to fiscal years beginning on or after Apr. 1, 1996, see section 202(e) of Pub. L. 103-432, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9133(c) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 602, 673, and 675 of this title] shall become effective April 1, 1988.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 102(a)(1) of Pub. L. 96-272, as amended by Pub. L. 98-118, §3(a), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(1), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(1), Apr. 7, 1986, 100 Stat. 294; Pub. L.

100-203, title IX, §9131(a)(1), Dec. 22, 1987, 101 Stat. 1330-313, provided that the amendment made by that section is effective with respect to expenditures made after Sept. 30, 1980.

Section 102(c) of Pub. L. 96-272, as amended by Pub. L. 98-118, §3(b), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(2), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(2), Apr. 7, 1986, 100 Stat. 294; Pub. L. 100-203, title IX, §9131(a)(2), Dec. 22, 1987, 101 Stat. 1330-313, provided that: “The amendments made by subsections (a) and (b) [amending this section and sections 608, 673, and 675 of this title] shall be effective only with respect to expenditures made after September 30, 1979.”

[Section 9131(b) of Pub. L. 100-203 provided that: “The amendments made by subsection (a) [amending section 102(a)(1), (c), and (e) of Pub. L. 96-272, set out as notes under this section] shall become effective October 1, 1987.”]

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(a)(2) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

CHILDREN VOLUNTARILY REMOVED FROM HOME OF RELATIVE

Section 102(d)(1) of Pub. L. 96-272 provided that: “For purposes of section 472 of the Social Security Act [this section], a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein would be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of section 471(a)(16) of such Act [section 671(a)(16) of this title] have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any child described in the preceding sentence, for purposes of section 472(a)(4) of such Act [subsec. (a)(4) of this section], the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal.”

ANNUAL REPORT TO CONGRESS OF NUMBER OF CHILDREN PLACED IN FOSTER CARE PURSUANT TO VOLUNTARY PLACEMENT AGREEMENTS

Pub. L. 96-272, title I, §102(e), June 17, 1980, 94 Stat. 515, as amended by Pub. L. 100-203, title IX, §9131(a)(3), Dec. 22, 1987, 101 Stat. 1330-313, which required the Secretary of Health, Education, and Welfare, to submit to Congress a full and complete annual report on the placement of children in foster care pursuant to voluntary placement agreements under this section and section 608 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 12 on page 99 of House Document No. 103-7.

§ 673. Adoption and guardianship assistance program

(a) Agreements with adoptive parents of children with special needs; State payments; qualifying children; amount of payments; changes in circumstances; placement period prior to adoption; nonrecurring adoption expenses

(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 675(3) of this title) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—