

DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413  
DIVISION 100

SUBSTITUTE CARE – FUNDING ELIGIBILITY

*Updated 12/18/2018*

TABLE OF CONTENTS

<b>Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility .....</b>	<b>2</b>
<b>Child Welfare Children’s Medical Eligibility.....</b>	<b>26</b>
<b>Child Support Referrals.....</b>	<b>40</b>
<b>Exhibit 1 – Applicable Child – Age.....</b>	<b>44</b>

# Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility

---

## 413-100-0000

### Purpose

(Amended 9/6/2018)

The purpose of these rules, OAR 413-100-0000 to 413-100-0345, is to describe the Department's responsibilities and criteria for making the following determinations, which are used to ensure proper federal reimbursement:

- (1) Title IV-E eligibility for children and young adults whose placement and care are the responsibility of the Department or another public agency with which the Department has made an agreement which is in effect; and
- (2) Adoption Assistance Title IV-E eligibility.
- (3) Guardianship Assistance Title IV-E eligibility.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## 413-100-0005

### Definitions

(Amended 9/6/2018)

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

- (1) "AFDC" means the Aid to Families with Dependent Children program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.
- (2) "Child" means a person under 18 years of age.
- (3) "Child care institution" means a private or public child care institution that accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority responsible for licensing or approval of institutions of this type.
- (4) "Child support" means any voluntary or court-ordered contribution by an absent *parent*. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

- (5) "Countable income" means the amount of available income, including *earned income* and *unearned income* not specifically excluded by OAR [461-140-0040](#) (rules in effect July 16, 1996), used to determine eligibility for public assistance.
- (6) "Date the child is considered to have entered foster care" is a federal term meaning the earlier of the following:
  - (a) The date that the court makes a finding that the *child* was subjected to child abuse or neglect; or
  - (b) 60 days from the date the *child* was *removed* from the home.
- (7) "Department" means the Oregon Department of Human Services.
- (8) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.
- (9) "Eligibility month" means:
  - (a) The month in which court action was initiated that resulted in the child's *removal* from the home of his or her *specified relative*.
  - (b) The month a voluntary placement or voluntary custody agreement was signed.
- (10) "Eligibility status" means the status resulting from a Title IV-E eligibility determination, as described in OAR [413-100-0075](#).
- (11) "Eligibility unit" means a group of individuals whose needs, income, and resources are considered together to determine their eligibility for public assistance and a child's eligibility for Title IV-E.
- (12) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the Department, or another public agency, has placement and care responsibility. This includes but is not limited to placements in foster homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A *child or young adult* is in foster care in accordance with this definition regardless of whether the foster care facility is licensed, and payments are made by the Department or local agency responsible for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the adoption or whether there is federal matching of any payments that are made.
- (13) "Need standard" means the income limit for an *eligibility unit* as set by the Department's AFDC standards in effect on July 16, 1996.
- (14) "Parent" means, under the AFDC rules in effect on July 16, 1996:

- (a) The biological mother or father of a person.
  - (b) The legal mother or father of a person.
  - (c) If the mother lives with a male, who both she and he claims is the father of the *child*, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.
  - (d) A stepparent under one of the following circumstances:
    - (A) The person is legally married to the child's biological or adoptive *parent*; and
    - (B) The marriage has not been terminated by legal separation, divorce or death.
  - (e) A legal adoption erases all prior legal and blood relationships and establishes the adoptive *parent* as the legal *parent*. However, the biological *parent* is also considered a *parent* if both of the following are true:
    - (A) The *child* lives with the biological *parent*; and
    - (B) The legal *parent*, who is the adoptive *parent*, has given up care, control, and supervision of the *child*.
- (15) "Removal" or "Removed" means either the physical act of a *child* being taken from his or her normal place of residence by court order or a voluntary placement agreement and placed in a foster care setting, or the removal of custody from the *parent* or relative guardian pursuant to a court order or voluntary placement agreement which permits the *child* to remain in a foster care setting.
- (16) "Removal home" means the home from which the *child* was *removed* because of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR [413-100-0135\(3\)](#).
- (17) "Resource" means any personal or real property that is or can be made available to meet the *need* of the *eligibility unit* that the Department does not specifically exclude from consideration.
- (18) "Reunified with parent" means that a *child* has been discharged from *foster care* through legal dismissal by the court, withdrawal of a voluntary placement agreement or after 6 months of *trial reunification*, unless *trial reunification* is extended for a specified period by court order.
- (19) "Specified relative" means an individual from whom the *child* is *removed* who is related to the *child* in one of the ways listed below. For the purposes of Title IV-E eligibility, if

any of the following relationships are established through marriage, the relationship remains the same even if the marriage is terminated by death or divorce:

- (a) A *parent* as defined in this rule;
  - (b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological *parent* are half-blood relatives);
  - (c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;
  - (d) A person who legally adopts a *child* and any persons related to the *child* through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;
  - (e) A stepmother, stepfather, stepbrother, or stepsister; or
  - (f) A spouse of anyone listed in subsections (b) to (e) of this section.
- (20) “Substitute care episode” means the period between the date a *child* is *removed* from his or her home by either a judicial determination or a voluntary placement or custody agreement, and the date a *child* or *young adult* is discharged from *foster care* for one of the reasons described in OAR [413-100-0110](#).
- (21) “Supplemental Security Income” or “SSI” means the federal program that pays benefits to disabled adults and [children](#) who have limited income and resources.
- (22) “Title IV-E” means Title IV-E of the Social Security Act, which provides federal payments to states for foster care maintenance, adoption assistance, and guardianship assistance on behalf of certain eligible children and *young adults*.
- (23) “Trial reunification” means that a *child* has been in a foster care placement under continuing state agency supervision and is returned to the primary caregiver the *child* was *removed* from, for a limited and specified period. The *child* must be considered *reunified with parent* at the point at which the trial reunification reaches six months or no later than the last day of a court ordered extension.
- (24) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.
- (25) "Young adult" means a person aged 18 years through 20 years.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#), [418.625](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#), [418.625](#)

### **413-100-0015**

#### **Application for Title IV-E Foster Care Funds**

(Amended 9/6/2018)

- (1) A *child* for whom the Department has responsibility for placement and care must be referred by the Department to a Title IV-E Specialist for a Title IV-E eligibility determination.
- (2) Title IV-E eligibility or reimbursement must not be authorized on behalf of any *child* or *young adult* prior to the establishment of eligibility by the Department's Title IV-E Specialist. A *child* or *young adult* is not Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

### **413-100-0030**

#### **Certification Documentation Requirements for Title IV-E Foster Care**

(Amended 9/6/2018)

- (1) Documentation of a certificate or license must be maintained in the certification record.
- (2) The following documentation is required for an out-of-state placement in a *foster care* or *child care institution*:
  - (a) Verification that the out-of-state *foster care* or *child care institution* is fully certified or licensed, including approval of criminal records checks, fingerprint-based checks and child abuse history checks, by the agency in the state responsible for licensing or certifying such facilities; or
  - (b) In states where relative homes are not certified, there must be:
    - (A) A statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period for which a formal license or certificate would be issued for that home; and
    - (B) A copy of the verification that a criminal history check, including fingerprint-based check and child welfare history, were completed and approved.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0060**

### **Title IV-E Reimbursable Placements and Payments**

*(Amended 9/6/2018)*

- (1) Reimbursable Placements. There are four types of out-of-home placements that meet the Title IV-E definition of a reimbursable placement. They are:
  - (a) The home of a certified non-relative;
  - (b) The home of a certified relative;
  - (c) A private, non-medical group home or crisis residential center licensed by a state; or
  - (d) A public non-medical group home or child caring agency with a licensed capacity of no more than 25 children.
  
- (2) Reimbursable Payments. Title IV-E *foster care* maintenance payments for a *child* or *young adult* in *foster care* may cover expenses listed in the following subsections:
  - (a) The cost for and the cost of providing food, clothing, shelter, daily supervision, school supplies, a *child* or young adult's personal incidentals, liability insurance with respect to the *child* or *young adult*, and reasonable travel to the *child* or young adult's home for visitation with family or other caretakers, and reasonable travel for the *child* or *young adult* to remain in the school in which the *child* or *young adult* is enrolled at the time of placement. Local travel associated with providing the items listed in this subsection is also an allowable expense.
  - (b) For a *child care institution*, the Title IV-E *foster care* maintenance payment must include reimbursement for the institution's reasonable administrative and operating expenses required to provide the items described in subsection (a) of this section.
  - (c) Title IV-E funds may be claimed retroactively for up to two years.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0075**

### **Eligibility Status**

*(Temporary effective 12/18/2018)*

Each Title IV-E eligibility determination must result in an *eligibility status* based on the following criteria:

- (1) Eligible and Reimbursable. The *child* or *young adult* is determined to have met all the Title IV-E eligibility requirements and is placed in a foster family home that is fully certified or a *child care institution* that is fully licensed, with all safety requirements of 471(a)(20)(D) of the Social Security Act complete.
- (2) Eligible and Not Reimbursable. The *child* or *young adult* is determined to have met all the Title IV-E eligibility requirements, and at least one of the following circumstances applies:
  - (a) For a period of not more than 180 days, in which an eligible child is placed in the home of a relative who has been issued a Temporary Certificate of Approval.
  - (b) For a period of not more than one calendar month during placement in a facility not eligible for payments when an otherwise eligible *child* or *young adult* transitions directly into a foster home or a *child care institution* fully licensed or certified by the Department.
  - (c) For the duration of an eligible *child* or young adult's runaway status.
  - (d) For up to six months, or no later than the last day of a court-ordered extension, when an eligible *child* is on *trial reunification*.
  - (e) For the duration of an eligible *child* or young adult's receipt of SSI benefits, when the Department has applied to be, or is the payee of SSI benefits.
  - (f) For the duration of an eligible *child* or *young adult* receiving an independent living subsidy.
- (3) Ineligible. The *child* or *young adult* is determined to not meet all the Title IV-E eligibility criteria for any of the following reasons:
  - (a) Permanent. A *child* is permanently ineligible for Title IV-E *foster care* maintenance payments for the entire *substitute care episode* when the Department determines the *child* is ineligible because:
    - (A) The Department did not obtain a judicial determination at the time of *removal* that it was in the best interest of the *child* to be *removed* from the home;
    - (B) The Department did not obtain a judicial determination of reasonable efforts to prevent *removal* within 60 days;
    - (C) The Department did not obtain a judicial finding of best interest to continue placement within 180 days of a child's voluntary placement;



- (D) The Department is unable to determine whether the *child* would have been eligible for AFDC based on Oregon administrative rules in effect on July 16, 1996; or
  - (E) The Department determines that a *child* did not live with a *specified relative* for some period during the six months prior to *removal*.
- (b) Temporary. A *child* or *young adult* is temporarily ineligible for Title IV-E maintenance payments when any of the following apply:
- (A) The *child* is placed in the month prior to the month in which the court made a finding that it was in the child's best interest to be *removed*.
  - (B) The Department does not obtain a permanency finding of reasonable efforts to achieve the permanent plan within the required timelines.
  - (C) The *child* or *young adult* is in a placement that is not Title IV-E reimbursable, as described in OAR [413-100-0060](#).
  - (D) The *parent* or parents establish residency in the home in which the *child* or *young adult* resides, and one or both parents are providing caretaking responsibility for the *child* or *young adult*.
  - (E) The *young adult* does not meet one of the age requirements in OAR [413-100-0230\(2\)\(b\)](#).

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0080**

### **Effective Date**

(Amended 9/6/2018)

- (1) When completing an initial determination pursuant to OAR [413-100-0125](#) to [413-100-0240](#), the child's Title IV-E *eligibility status* will be effective the first day of placement.
- (2) When completing an annual redetermination pursuant to OAR [413-100-0270](#), the child's Title IV-E *eligibility status* will be effective 365 days from the *date the child was considered to have entered foster care* and every 12 months thereafter.
- (3) When completing a redetermination as a result of a change in a *child* or young adult's placement, the *child* or young adult's Title IV-E *eligibility status* will be effective the date of the new placement. Placement changes affecting Title IV-E eligibility:

- (a) The *child* moves from a foster home that has a Temporary Certificate of Approval to a foster home that has a Certificate of Approval.
  - (b) The *child* moves from a foster home that has a Certificate of Approval to a foster home that has a Temporary Certificate of Approval.
  - (c) The *child or young adult* is placed with the *parent* on *trial reunification*, and the Department retains placement and care responsibilities.
  - (d) The *child* returns to a foster care placement within six months of the start of a *trial reunification*, and the Department has continued placement and care responsibilities.
  - (e) The *child or young adult* moves to a placement that is not Title IV-E reimbursable.
  - (f) The *child* leaves the foster care placement and is considered to have run away.
- (4) When completing a redetermination because the child's current foster home has been issued a Certificate of Approval, the *child* or young adult's Title IV-E *eligibility status* will be effective the first day of placement in the month in which all certification criteria are met.
- (5) When completing a redetermination because the foster parent's Certificate of Approval is expiring or being revoked, the *child* or young adult's Title IV-E *eligibility status* will be effective the day the certificate expires or is revoked.
- (6) When completing a redetermination because the Department has obtained a judicial finding of best interest in a month subsequent to the month in which the *child* was placed in *foster care*, and the finding is made at the first hearing addressing the child's *removal*, the child's Title IV-E *eligibility status* will be effective the first day of the month in which the finding was made.
- (7) When completing a redetermination because the Department has not obtained a permanency finding of reasonable efforts to achieve the permanent plan within the required timelines, the *child or young adult's* Title IV-E *eligibility status* will be effective the last day of the month in which the finding was required.
- (8) When completing a redetermination because the Department obtained a delayed judicial finding, the *child* or young adult's Title IV-E *eligibility status* will be effective the first day of the month in which the finding is made.
- (9) When completing a redetermination because the Department did not obtain a finding of best interest within 180 days of a *child* or young adult's voluntary placement, the *child* or

young adult's Title IV-E *eligibility status* will be effective on the 181<sup>st</sup> day from placement.

- (10) When completing a redetermination because of a *child* or young adult's approved application for SSI benefits, the *child* or young adult's *eligibility status* will be effective the first day of the month subsequent to the application month.
- (11) When completing a redetermination because a *child* or *young adult* is no longer receiving SSI benefits, the *child* or young adult's *eligibility status* will be effective the first day of the month after the SSI benefits end.
- (12) When completing a redetermination because the *parent* or parents establish residency in the home in which the *child* or *young adult* resides and one or both parents are providing caretaking responsibility for the *child* or *young adult*, the *child* or young adult's *eligibility status* will be effective the date in which the *parent* moved into the home.
- (13) When completing a redetermination because a *young adult* no longer meets the age requirements, as described in OAR [413-100-0230](#), the young adult's *eligibility status* will be effective the date he or she no longer meets the age requirements.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0090**

### **Correcting Eligibility**

*(Amended 9/6/2018)*

A child's eligibility must be corrected when any of the following circumstances occur:

- (1) Financial information for the *eligibility unit* is obtained.
- (2) Information becomes available that proves the denial of the child's initial Title IV-E eligibility determination was inaccurate.
- (3) A transcript or recording of the court hearing is obtained that verifies the required judicial finding was made during the court hearing.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0110**

### **Eligibility End Date**

(Amended 9/6/2018)

Title IV-E eligibility must end when a *child* or *young adult* is discharged from *foster care* for any of the following reasons:

- (1) The date the Department ceases to have responsibility for the placement and care of the *child* or *young adult*.
- (2) The date in which *trial reunification* ends at six months or no later than the last day of a court ordered extension.
- (3) The date the *young adult* reaches the age of 21 years old.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0125**

### **Initial Determination Requirements**

(Adopted 9/6/2018)

To be eligible for Title IV-E at the time of *removal*, a *child* must meet all the following requirements:

- (1) U.S. citizenship, as required by OAR [413-100-0210](#).
- (2) Age, as required by OAR [413-100-0230](#).
- (3) *Removal* from the home of the *specified relative*, as required by OAR [413-100-0135](#).
- (4) Judicial language in court orders, as required by OAR [413-100-0240](#).
- (5) AFDC eligibility, as required by OAR [413-100-0135](#) through [413-100-0200](#).
- (6) Parental deprivation, as required by OAR [413-100-0150](#).

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0135**

### **Removal Requirements**

(Amended 9/6/2018)

- (1) *Specified relative* requirements. To meet Title IV-E eligibility requirements, the *child* must have lived at some point during the six months prior to *removal* with a *specified relative*.
- (2) Removal requirements for a *child* age 17 or younger. To meet Title IV-E eligibility requirements, the *child*'s removal from the home must occur pursuant to:
  - (a) A voluntary custody agreement or voluntary placement agreement, signed by a *specified relative*, that results in the physical or constructive removal of the *child* from the home; or
  - (b) A judicial order that requires the *child*'s physical or constructive removal from the *specified relative* and gives the Department responsibility for the placement and care of the *child*.
- (3) Removal home requirements. For Title IV-E eligibility purposes, the *child*'s *removal home* must meet the requirements of one of the following subsections:
  - (a) Physical Removal. The Department considers a *child*'s *removal* a physical removal when the judicial order or the voluntary custody or voluntary placement agreement results in the *removal* of the *child* from the physical custody of a *specified relative*.
  - (b) Constructive Removal. The Department considers a *child*'s removal a constructive removal when the *child* is living in the home of an interim caretaker at the time of *removal*, but the *child* lived with a *specified relative* at some point during six months prior to *removal*.

Stat. Auth.: ORS [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#), [418.625](#)

## **413-100-0150**

### **Determining Parental Deprivation**

(Amended 9/6/2018)

Deprivation of parental support in relation to the *removal home* exists in any of the following circumstances:

- (1) Either *parent* of a *child* is deceased.
- (2) One or both parents are absent from the home as described by one of the following:
  - (a) One or both parents are out of the home, and the nature of the absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the *child*;

- (b) There is evidence of continued absence of more than 30 days; or
  - (c) There is a predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.
- (3) Physical or mental incapacity based on one of the following:
- (a) One or both parents receive SSI.
  - (b) One or both parents receive Social Security Benefits based on disability or blindness; or
  - (c) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the *child*.
- (4) One or both parents are unemployed and the *eligibility unit* meets the AFDC need criteria.

Stat. Auth.: ORS [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

## **413-100-0160**

### **Determining Financial Need**

*(Amended 9/6/2018)*

- (1) At the time of the initial Title IV-E determination, the Department must review the income and resources available to the *eligibility unit* during the *eligibility month* to determine whether the *child* would have been eligible for AFDC under rules in effect on July 16, 1996.
- (2) To be eligible for Title IV-E, the income and resources available to the *eligibility unit* must meet both the *countable income* limit (185 percent of the basic standard) and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance).
- (3) If the *child* is removed from the home of a *specified relative* that is a *parent*, the Department must:
  - (a) Determine the countable gross *earned income* of all members in the *eligibility unit* including the \$90 standard *earned income* deduction, when applicable;

- (b) Determine the countable *unearned income* of all members in the *eligibility unit* including the \$50 *child support* deduction, when applicable;
  - (c) Exclude individuals receiving SSI or a combination of SSI and other Social Security benefits from the number in the *eligibility unit* for all AFDC calculations; and
  - (d) Apply the AFDC countable income limit (185 percent of the basic standard) with adult and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance) with adult.
- (4) If a *child* is removed from the home of a *specified relative* who is not a *parent* of the *child*, the Department must:
- (a) Disregard the income and resources of each *specified relative*;
  - (b) Determine the countable *earned income*, *unearned income* and resources available to the *child*; and
  - (c) Apply the AFDC countable income limit (185 percent of the basic standard) with no adult and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance) with no adult.
- (5) If a *child* is removed from a minor *parent* who resides in his or her parents' home, and the minor *parent* is under age 18, has never married, and is not legally emancipated, the Department must:
- (a) Exclude the resources of the parents of the minor *parent*;
  - (b) Determine the portion of income of the parents of the minor *parent* that is considered available to the minor *parent*:
    - (A) Determine the countable gross *earned income* of the *parent* of the minor and subtract the \$90 standard *earned income* deduction, if applicable; and
    - (B) Determine the countable *unearned income* of the *parent* of the minor *parent* and subtract the following, if applicable:
      - (i) Amounts paid to the legal dependents of the parents of the minor *parent* not living in the household; and
      - (ii) Payments of alimony and *child support*.
    - (C) Apply the Adjusted Income/Payment Standard. Any remaining income is considered income available to the minor *parent*.

- (c) Determine the countable gross *earned income* of all members in the *eligibility unit* including the \$90 standard *earned income* deduction, when applicable;
  - (d) Determine the countable *unearned income* of all members in the *eligibility unit* including the \$50 *child support* deduction, when applicable;
  - (e) Exclude individuals receiving SSI or a combination of SSI and other Social Security benefits from the number in the *eligibility unit* for all AFDC calculations; and
  - (f) Apply the AFDC countable income limit (185 percent of the basic standard) with adult and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance) with adult.
- (6) In circumstances in which the *parent* or caregiver is not available or willing to provide financial information to the Department, the Department may determine AFDC eligibility based on a preponderance of evidence.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0170**

### **Determining Resources**

(Amended 9/6/2018)

A *child* is not Title IV-E eligible if in the *eligibility month* all resources available to the *eligibility unit* that are not excluded by Department rules in effect on July 16, 1996, exceed the *resource* limit.

- (1) The *resource* limit for an *eligibility unit* is \$10,000.
- (2) A *resource* considered available to the *eligibility unit* includes:
  - (a) Cash on hand.
  - (b) Cash in a safe deposit box.
  - (c) Checking or savings accounts.
  - (d) Stocks, bonds and other securities including Certificates of Deposit.
  - (e) Trust fund if legally available for use.
  - (f) Equity value of prepaid burial arrangement. Of the equity value of a prepaid burial arrangement, \$1,500 is exempt.



- (g) Equity value of life insurance policy.
- (h) Equity value of recreational vehicles used for amusement.
- (i) Equity value of motor vehicles. Of the equity value of a licensed motor vehicle, \$1,500 is exempt if it is utilized for day-to-day transportation. If an *eligibility unit* has more than one licensed motor vehicle, only one vehicle is eligible for the exemption.
- (j) Equity value of real property (land and buildings).
- (k) Equity value of income producing property.
- (L) Equity value of work related equipment.
- (m) Tax refunds.

Stat. Auth.: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

#### **413-100-0180**

##### **Earned Income of Students**

(Amended 9/6/2018)

- (1) The *earned income* of a *child* or *young adult* who has a GED or high school diploma and is included in the *eligibility unit* is counted when determining Title IV-E eligibility.
- (2) *Earned income* is not counted for:
  - (a) A *child*, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or
  - (b) A *child*, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

#### **413-100-0210**

##### **U.S. Citizenship and Qualified Non-citizens**

(Amended 9/6/2018)

A Title IV-E eligible *child* or *young adult* must be:

- (1) A United States citizen; or
- (2) A qualified non-citizen is defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), [P.L. 104-193](#). Under Section 431 of PRWORA, a qualified non-citizen's access to federal public benefits is restricted for five years beginning on the date of the qualified non-citizen's entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA, a qualified non-citizen is:
  - (a) Lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (the "Act");
  - (b) Granted asylum under Section 208 of the Act;
  - (c) A refugee admitted to the United States under section 207 of the Act;
  - (d) Paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;
  - (e) An individual whose deportation is being withheld under Section 243(h) of the Act;
  - (f) An individual granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;
  - (g) If the *child* is a qualified non-citizen who is placed with a qualified non-citizen or United States citizen, the date the *child* entered the United States is irrelevant, and the five-year restriction on federal public benefits does not apply; or
  - (h) If the *child* is a qualified non-citizen who entered the United States on or after August 22, 1996, and is placed with an unqualified qualified non-citizen, the *child* would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the *child* is in one of the excepted groups identified at section 403(b).

Stat. Auth.: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

## **413-100-0230**

### **Age Requirements**

*(Amended 9/6/2018)*

To be Title IV-E eligible, a *child* or *young adult* must be:

- (1) A *child* at the time of *removal*.
- (2) At redetermination:
  - (a) A *child*; or
  - (b) A *young adult*, who meets one of the following requirements:
    - (A) Completing his or her secondary education or a program leading to an equivalent credential;
    - (B) Enrolled in an institution that provides post-secondary or vocational education;
    - (C) Participating in a program or activity designed to promote or remove barriers to employment;
    - (D) Employed for at least 80 hours per month; or
    - (E) Determined to be unable to perform any of the activities in paragraphs (A) to (D) of this subsection due to a physical condition, mental disability or physical disability documented by medical evidence and regularly updated information in the case plan of the *young adult*.

Stat. Auth.: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [412.144](#), [418.005](#)

## **413-100-0240**

### **Judicial Finding Requirements for Title IV-E Eligibility**

*(Amended 9/6/2018)*

- (1) *Reasonable efforts determination.* The Title IV-E agency must make reasonable efforts to maintain the family unit and prevent the unnecessary *removal* of a *child* from his or her home; to affect the safe reunification of the *child* and family; and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.
  - (a) *Judicial determination of reasonable efforts to prevent a child's removal from the home.* When a *child* is *removed* from his or her home, the Title IV-E agency must obtain a judicial determination that reasonable efforts were made or were not required to prevent the *removal* (pursuant to section (2) of this rule). This judicial determination must be obtained no later than 60 days from the date the *child* is *removed* from the home.
  - (b) *Judicial determination of reasonable efforts to finalize a permanency plan.* The Title IV-E agency must obtain a judicial determination that it has made reasonable

efforts to finalize the permanency plan that is in effect within 12 months of the *date the child is considered to have entered foster care* and at least once every 12 months thereafter while the *child* is in *foster care*.

- (c) *Circumstances in which reasonable efforts are not required.* Reasonable efforts to prevent a child's removal from home or to reunify the *child* and family are not required if the Title IV-E agency obtains a judicial determination that such efforts are not required because a court determines one of the following circumstances exists:
  - (A) The *parent* has subjected the *child* to aggravated circumstances including, but not limited to, one of the reasons listed in ORS [419B.340\(5\)\(a\)](#);
  - (B) The *parent* has been convicted in any jurisdiction of one of the crimes listed in ORS [419B.340\(5\)\(b\)](#); or
  - (C) The parent's rights to another *child* have been terminated involuntarily.
- (2) *Contrary to the welfare or best interest determination. The Title IV-E agency must obtain a judicial determination that continuation in the home would be contrary to the welfare, or that placement would be in the best interest, of the child.*
  - (a) When a *child* is *removed* pursuant to a court order, the judicial determination must be made in the first court order that sanctions (even temporarily) the *removal* of a *child* from home.
  - (b) When a *child* is *removed* pursuant to a voluntary placement agreement, the judicial determination must be made no later than 180 days from the date of the child's placement.
- (3) *Documentation of judicial determinations.*
  - (a) The judicial determinations regarding contrary to the welfare, reasonable efforts to prevent *removal*, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and must be made on a case-by-case basis and stated in the court order.
  - (b) If the reasonable efforts and contrary to the welfare judicial determinations are not included as required in the court orders identified in sections (1) and (2) of this rule, a transcript of the court proceedings is the only other documentation that will be accepted to verify these required determinations have been made.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#), [419B.340](#), 42 U.S.C. [671](#), [672](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#), [419B.340](#)

## **413-100-0270**

### **Redetermination Requirements**

(Amended 9/6/2018)

- (1) The Department must complete an annual redetermination no later than 12 months from the *date the child is considered to have entered foster care*, and every 12 months thereafter, for the duration of the *child or young adult's substitute care episode* to determine whether the *child or young adult* continues to meet the following Title IV-E eligibility requirements during the review period:
  - (a) The *child or young adult* continues to meet the age requirements under OAR [413-100-0230](#);
  - (b) The judicial finding requirements for reasonable efforts under OAR [413-100-0240](#) continues to be met; and
  - (c) The *child or young adult* was placed in a fully certified foster or relative caregiver home or with a licensed child caring agency during the redetermination period.
- (2) The Department must complete a redetermination as soon as possible when a *child or young adult's eligibility status* changes due to any of the following circumstances:
  - (a) The *child or young adult's* placement service changes and the reimbursement status of the new placement differs from that of the prior placement.
  - (b) The *child or young adult* becomes eligible, or ineligible, for SSI.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [409.050](#), [418.005](#)

## **413-100-0320**

### **Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid**

(Amended 9/6/2018)

- (1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible *child* in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.
- (2) For a Title IV-E *foster care* eligible *child* being placed outside of Oregon, the Department must provide the following information to the foster or adoptive parents:
  - (a) Confirmation of the child's Title IV-E eligibility;

- (b) Notification of the discontinuance of the child's Oregon Medicaid coverage; and
- (c) A letter stating the child's eligibility under COBRA for applying for Title XIX Medicaid coverage in the child's new state of residence.

Stat. Auth.: ORS [409.010](#), [409.050](#), [418.005](#)  
Stats. Implemented: [409.010](#), [409.050](#), [418.005](#)

## **413-100-0335**

### **Title IV-E Adoption Assistance Eligibility Determination**

*(Amended 9/6/2018)*

- (1) A *child* is not eligible for Title IV-E adoption assistance when:
  - (a) The *child* is not a citizen or resident of the United States; and
  - (b) The *child* was adopted outside of the United States or was brought into the United States for the purpose of being adopted.
- (2) A *child* that meets the special needs criteria as defined by OAR [413-100-0125](#) is eligible for Title IV-E adoption assistance when the requirements of at least one of the following subsections are met:
  - (a) In the case of a *child* who is not an applicable child, the *child* is eligible for Title IV-E adoption assistance when at least one of the following apply:
    - (A) The *child* was determined eligible for Title IV-E *foster care*, in accordance with the eligibility criteria prescribed in OAR [413-100-0125](#) to [413-100-0240](#).
    - (B) The *child* meets all eligibility requirements for SSI benefits.
    - (C) The child's payments in a certified foster home or private child caring agency are covered by a Title IV-E *foster care* maintenance payment being made for his or her minor *parent*.
    - (D) The child's eligibility for a Title IV-E adoption assistance payment was established for a prior adoption, and the *child* is now available for adoption because of one of the following:
      - (i) The prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated or relinquished; or
      - (ii) Each adoptive *parent* of the *child* has died.

- (b) In the case of a *child* who does not meet at least one of the criteria in section (2) of this rule, who is an applicable child as defined by section (3) of this rule, the *child* is eligible for Title IV-E adoption assistance when at least one of the following apply:
- (A) At the time of initiation of the adoption proceeding, the *child* was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to:
    - (i) An involuntary removal in accordance with a judicial determination that it was contrary to the child's welfare for the *child* to remain in the home; or
    - (ii) A voluntary placement agreement or voluntary relinquishment.
  - (B) The *child* meets all medical and disability requirements of Title XVI with respect to eligibility for SSI benefits.
  - (C) The *child* was residing in a family foster home or *child care institution* with his or her minor *parent* and the minor *parent* was removed from the home pursuant to:
    - (i) An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; or
    - (ii) A voluntary placement agreement or voluntary relinquishment.
  - (D) The *child* was adopted and was determined eligible for Title IV-E adoption assistance in a prior adoption and is available for adoption because of one of the following:
    - (i) The prior adoption was dissolved and the parental rights of the adoptive parents have been terminated or relinquished; or
    - (ii) The child's adoptive parents have died.
- (3) An "applicable child" as defined in section 473(e) of the Social Security Act ([42 U.S.C. 673](#)) meets at least one of the following requirements:
- (a) The *child* meets the applicable age requirements if during the federal fiscal year (FFY) (October 1 through September 30) in which the adoption assistance agreement is finalized, he or she attains the applicable age, as illustrated by Exhibit 1. The Department maintains this exhibit on the Department's website. A printed copy of the exhibit may be obtained by contacting the Department of Human Services, Office of Child Welfare Programs, ATTN: Federal Policy,

Planning and Resources Program, PO Box E-67, 500 Summer St. NE, E93,  
Salem, OR 97301;

- (b) The *child* has been in *foster care* under the responsibility of the Title IV-E agency for any 60-consecutive-month period prior to finalization of the adoption; or
  - (c) The *child* is a sibling of another *child* the Department has determined is an applicable *child* and both children are placed in the same adoption arrangement.
- (4) To be eligible for an extension of Title IV-E adoption assistance through age 20, the *young adult* must meet the requirements of OAR [413-130-0055](#).
- (5) Private Agency Adoptions. To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to a public or private nonprofit agency must meet the special-needs criteria described in OAR [413-130-0020](#) and all the following requirements:
- (a) The *child* must be voluntarily relinquished either to the state agency (or another public agency, including tribes with whom the state has a Title IV-E agreement), or to a private, nonprofit agency.
  - (b) Within six months of the date the *child* last lived with a *specified relative*, the entity to which the *child* was relinquished must file a petition with the court to remove the *child* from the home.
  - (c) The court must make a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.
  - (d) The *child* must meet the Title IV-E AFDC eligibility requirements, as described in OAR [413-100-0150](#) through [413-100-0170](#).
- (6) Independent Adoptions. To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to an individual must meet the special needs criteria described in OAR [413-130-0020](#) and meet at least one of the following requirements:
- (a) The *child* meets the eligibility criteria for SSI at the time the adoption petition is filed.
  - (b) The *child* is in a subsequent adoption, and he or she received Title IV-E adoption assistance in a previous adoption.
- (7) Eligibility for Title IV-E adoption assistance may not be presumed for a *child* placed with a guardian who is receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination on a form approved by the Department based on the original removal of the *child*.



Stats. Implemented: ORS [418.005](#), [418.330 - 418.340](#)

## **413-100-0345**

### **Guardianship Assistance Eligibility**

*(Amended 9/6/2018)*

- (1) To be eligible for Title IV-E guardianship assistance, the *child* and prospective guardian must meet the eligibility requirements as described in OAR [413-070-0917](#).
- (2) The Title IV-E guardianship assistance determination must be completed by a IV-E Specialist on a form approved by the Department.
- (3) Title IV-E Guardianship Assistance Eligibility Denial Notices and the Right to a Hearing.
  - (a) Title IV-E Guardianship Assistance Denial Notices
    - (A) The Department must complete a "Denial of Title IV-E Guardianship Assistance Eligibility" form at the time of the child's Title IV-E eligibility denial for guardianship assistance.
    - (B) The Department must send a "Denial of Title IV-E Guardianship Assistance Eligibility" form by certified mail to the prospective relative guardian when the child's eligibility for Title IV-E guardianship assistance is denied.
  - (b) Rights to a Hearing.
    - (A) When the "Denial of Title IV-E Guardianship Assistance Eligibility" form is mailed to the prospective relative guardian, the Department will include information about the prospective relative guardian's right to a hearing.
    - (B) If the prospective relative guardian does not agree with the Title IV-E eligibility decision, the prospective relative guardian has the right to request a contested case hearing, as described in OAR [413-010-0500 to 413-010-0535](#).

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## Child Welfare Children's Medical Eligibility

---

### 413-100-0400

#### Purpose

(Amended 12/21/15)

The purpose of OAR 413-100-0400 to 413-100-0530 is to set forth policies and criteria the Department uses to determine eligibility for:

- (1) Medical assistance under Title XIX of the Social Security Act for a *child* or *young adult* in *substitute care* and in the care and *custody* of the Department or another state;
- (2) Medical assistance under Title XIX for a *child* or *young adult* under an *adoption assistance agreement* or *guardianship assistance agreement* through the Department or another state;
- (3) *General Assistance* medical for a *child* or *young adult* who does not meet the eligibility criteria for *Title XIX Medicaid*; and
- (4) Medical eligibility for children entering Oregon under an *Interstate Compact for the Placement of Children* (ICPC) or *Interstate Compact on Adoption and Medical Assistance* (ICAMA) agreement.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

### 413-100-0410

#### Definitions

(Amended 12/21/15)

As used in OAR 413-100-0400 to 413-100-0530:

- (1) "Adjudication" means the legal process by which a *child* or *young adult* is under a court's jurisdiction as a result of having engaged in delinquent behavior and not having a legal guardian that could be responsible for the *child* or *young adult*.
- (2) "Adoption assistance" means assistance provided on behalf of an eligible *child* or *young adult* to offset the costs associated with adopting and meeting the ongoing needs of the *child* or *young adult*. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.
- (3) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *pre-adoptive family* or adoptive family of an eligible *child* or *young adult*, setting forth the assistance the Department is to provide on

behalf of the *child* or *young adult*, the responsibilities of the *pre-adoptive family* or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

- (4) "Child" means a person under 18 years of age.
- (5) "Children's Medical Unit" means the unit in Child Welfare Central Office where medical eligibility is completed for children in the ICPC, ICAMA, Non-IV-E Tribal, and Karly's Law programs.
- (6) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 which is a federal mandate that requires employers sponsoring group health plans for twenty (20) or more employees to offer continuation of coverage to employees, their spouses, and dependent children who become unemployed.
- (7) "Custody" means legal custody described in ORS [419B.373](#).
- (8) "Department" means the Department of Human Services, Child Welfare.
- (9) "Foster care" means 24 hour *substitute care* for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A *child* is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.
- (10) "General Assistance" means services paid using the state General Fund.
- (11) "Guardianship assistance" means assistance on behalf of an eligible *child* or *young adult* to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the *child* or *young adult*. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.
- (12) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (13) "ICAMA" means the Interstate Compact on Adoption and Medical Assistance, which was established in 1986 to safeguard and protect the interstate interests of children covered by an *adoption assistance agreement* when they move or are adopted across state lines.

- (14) "ICPC" means the Interstate Compact for the Placement of Children. It is an agreement among states to coordinate the transfer and placement of children across state lines. (See ORS 417.200)
- (15) "Independent Living Program" or "ILP" means the services provided by the Department to an eligible foster child or former foster child.
- (16) "OCCS Medical" means Title XIX and Title XXI Medical provided through the Office of Client and Community Services under the Oregon Health Authority.
- (17) "Pre-adoptive family" means an individual or individuals who:
  - (a) Has been selected to be a child's adoptive family; and
  - (b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.
- (18) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical *custody* and care of the Department.
- (19) "Title IV-E" means Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance, *adoption assistance*, and *guardianship assistance* on behalf of certain eligible children and young adults.
- (20) "Title XIX Medicaid" means federal and state funded medical assistance established by Title XIX of the Social Security Act.
- (21) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0420**

### **Child Welfare Title XIX Medicaid Program Eligible Populations**

*(Amended 12/21/15)*

Only the following children and young adults may be eligible for Child Welfare *Title XIX Medicaid*:

- (1) A *child* or *young adult* in *substitute care*, which may include:
  - (a) A *child* or *young adult* in *foster care*.
  - (b) A *child* or *young adult* receiving Supplemental Security Income (SSI).

- (c) A *child* or *young adult* held temporarily in a county or state juvenile detention facility.
- (d) A *child* or *young adult* in a subsidized *Independent Living Program*.
- (e) A *child* or *young adult* who returned home in a trial reunification for up to six months.
- (f) A *child* or *young adult* in a pre-adoptive placement.
- (g) A *child* or *young adult* on runaway status who would otherwise be in *substitute care*, as long as the Department retains *custody* of the *child* or *young adult* and the *child* or *young adult* would continue to be in *substitute care* and Child Welfare *Title XIX Medicaid* eligible if not on runaway status.
- (h) A *child* or *young adult* hospitalized while under the Department's protective *custody* is eligible, if at the time of hospitalization, the Department's intent was to place the *child* or *young adult* in *substitute care*.
- (i) A *child* or *young adult* from Oregon placed in *substitute care* in another state through ICPC and the receiving state has denied the *child* or *young adult* medical coverage.
- (j) A *child* or *young adult* admitted to the hospital prior to entering *substitute care* and a newborn released from the hospital into *substitute care*. Eligibility for a *child* or *young adult* is effective on the date the Department finds the *child* or *young adult* is eligible but not earlier than the date the Department obtains *custody* of the *child* or *young adult*.
- (k) Newborns in the following situations:
  - (A) A baby born to a mother receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority is eligible for *Title XIX Medicaid* due to the mother's coverage.
  - (B) A baby born to a mother not receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority, to ensure coverage of birth expenses if:
    - (i) The Department obtains *custody* of the baby during its hospitalization; and
    - (ii) Child Welfare *Title XIX Medicaid* coverage is entered in the Department's electronic information system effective the date of birth.

- (2) A *child* or *young adult* who is the subject of an effective *adoption assistance agreement* administered by the Department.
- (3) A *child* or *young adult* who is the subject of an effective *guardianship assistance agreement* administered by the Department.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0430**

### **Eligibility Determination for a Child or Young Adult in Substitute Care**

*(Amended 06/12/14)*

Except as provided in OAR 413-100-0435(7), the following policies apply to a *child* or *young adult* in *substitute care*:

- (1) Before a *child* or *young adult* in *substitute care* may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Department must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.
- (2) A *child* or *young adult* covered by OAR 413-100-0420 who meets one of the following criteria is categorically eligible for Child Welfare *Title XIX Medicaid*:
  - (a) Is eligible for *Title IV-E foster care* payments; or
  - (b) Is receiving Supplemental Security Income (SSI).
- (3) As part of the eligibility determination for Child Welfare *Title XIX Medicaid*:
  - (a) The *child* or *young adult* must meet the citizenship and alien status requirements in OAR 413-100-0460.
  - (b) All income and resources will be disregarded except as described in (3)(d) of this section.
  - (c) The *child* or *young adult* must have a verified Social Security number (SSN) or verification that an application for an SSN has been made and is documented in the case file.
  - (d) The Department must determine if the *child* or *young adult* has other insurance.
    - (A) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the *child* or *young adult*, must be assigned to the Department.

- (B) The form MSC 415H, "Notification of Other Health Insurance", must be completed by a parent or the caseworker and sent to the Department for every *child* or *young adult* with health insurance coverage.
- (4) Except when a *child* or *young adult* is determined eligible for Child Welfare *Title XIX Medicaid* under OAR 413-100-0435, coverage ends the day the *child* or *young adult* leaves state *custody*, or enrolls into *OCCS Medical*.
- (5) *General Assistance* coverage will be provided when a *child* or *young adult* in *substitute care* does not meet the eligibility requirements for Child Welfare *Title XIX Medicaid* coverage. Eligibility redeterminations for a *child* or *young adult* receiving *General Assistance* must be completed every 12 months.
- (6) Redetermination of the eligibility of each *child* or *young adult* for Child Welfare *Title XIX Medicaid* must be reviewed every 12 months.
- (7) Retroactive Title XIX Medicaid or General Assistance eligibility.
- (a) A *child* or *young adult* receiving medical assistance through *General Assistance* rather than through Child Welfare *Title XIX Medicaid* due solely to the lack of a Social Security number (SSN) is eligible for Child Welfare *Title XIX Medicaid* retroactive to the date of placement once the Department receives verification of an application for an SSN from the Social Security Administration.
- (b) A *child* or *young adult* in *substitute care* may be enrolled into *Title XIX Medicaid* or *General Assistance* retroactively to the date of initial placement, if not done on date of placement.
- (c) A *child* or *young adult* who has been found to have dual prime numbers in the Medicaid Management Information System (MMIS) may receive retroactive coverage to the earliest date of coverage for either prime number.
- (8) Corrections to the record of the *child* or *young adult* in the Department's electronic information system may be made when it has been determined that the *child* or *young adult* was incorrectly shown as Child Welfare *Title XIX Medicaid* eligible for prior months.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

### **413-100-0432**

#### **Payments for Services Provided in Emergency Situations When a Child or Young Adult is Not Enrolled in Title XIX Medicaid**

*(Adopted 06/12/14)*

Payment may be made for emergency medical services only for a *child* or *young adult* in the Department's care or *custody*. The payment is made from the local office's "Other Medical" budget.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

### **413-100-0435**

#### **Title XIX Medicaid Eligibility for a Child or Young Adult Receiving Adoption Assistance or Guardianship Assistance**

*(Amended 12/21/15)*

- (1) The Child Welfare Post Adoption Program will determine and maintain Child Welfare *Title XIX Medicaid* eligibility for the following children and young adults:
  - (a) A *child* or *young adult* who has exited Department *custody* as the result of a finalized adoption, and the *child* or *young adult* is the subject of an effective *adoption assistance agreement* administered by the Department. Prior to the adoption finalization the *child* or *young adult* receives medical coverage as described in OAR [413-100-0430](#).
  - (b) A *child* or *young adult* who is determined eligible for *guardianship assistance* and is the subject of an effective *guardianship assistance agreement* administered by the Department.
  - (c) A *child* or *young adult* who is the subject of an adoption that does not require the Department's consent and is the subject of an effective *adoption assistance agreement* administered by the Department.
- (2) Before a *child* or *young adult* described in section (1) of this rule may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Child Welfare Post Adoption Program must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.
- (3) The requirements listed in OAR [413-100-0430](#)(3) also apply to children and young adults described in section (1) of this rule.
- (4) A *child* or *young adult* described in section (1) of this rule who is the subject of a *guardianship assistance agreement* where *Title IV-E* funded payments are being made to the guardian is eligible for Child Welfare *Title XIX Medicaid*.



- (5) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* where the pre-adoptive parent or adoptive parent is eligible to receive a *Title IV-E* funded payment is eligible for Child Welfare *Title XIX Medicaid*.
- (6) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* or *guardianship assistance agreement*, where the *child* or *young adult* was eligible for Child Welfare *Title XIX Medicaid* while in *substitute care* but ineligible for *Title IV-E foster care*, will be determined eligible and provided Child Welfare *Title XIX Medicaid*.
- (7) A *child* or *young adult* described in section (1) of this rule determined ineligible to receive Child Welfare *Title XIX Medicaid* will be provided *General Assistance* medical when:
  - (a) The *child* or *young adult* resides in Oregon; or
  - (b) The *child* or *young adult* resides outside of Oregon but in the United States or a territory or possession thereof and is not able to receive medical assistance through the state of residence.
- (8) Annual redeterminations are not required for children and young adults under a finalized *adoption assistance agreement* or *guardianship assistance agreement*.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0445**

### **Youth in Detention**

*(Amended 06/12/14)*

- (1) Except as provided in section (2) of this rule, an individual held in a county or state juvenile detention facility is ineligible for Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage.
- (2) An individual held in a county or state juvenile detention facility may be eligible for new or continuation of Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage under the following situations:
  - (a) If the *child* or *young adult* is in detention and going back to *substitute care*.
  - (b) When the *child* or *young adult* is in Child Welfare care or *custody* and will be in a detention facility temporarily.

- (3) Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage will be closed after *adjudication* when the *child* or *young adult* is placed in the care and *custody* of the Oregon Youth Authority.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

### **413-100-0451**

#### **Interstate Compact for the Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA)**

*(Adopted 06/12/14)*

- (1) The *Children's Medical Unit* will determine and maintain *Title XIX Medicaid* eligibility for a *child* or *young adult* placed in Oregon from another state pursuant to an approved ICPC request or eligible for medical assistance in Oregon under ICAMA.
- (2) A *child* or *young adult* placed in Oregon pursuant to an approved ICPC request is eligible for medical assistance in Oregon when at least one of the following criteria are met:
  - (a) The *child* or *young adult* is placed in *substitute care* in Oregon;
  - (b) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and intends to remain in Oregon permanently; or
  - (c) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and has been determined *Title IV-E* eligible.
- (3) A *child* or *young adult* is eligible for medical assistance in Oregon under ICAMA when the *child* or *young adult* is the subject of an effective *adoption assistance agreement* or *guardianship assistance agreement* administered by an agency other than the Department and meets one of the following criteria:
  - (a) The agreement is *Title IV-E* funded and the *child* or *young adult* is residing in Oregon;
  - (b) The agreement is *Title IV-E* funded and the *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility or living in a residential or boarding school in Oregon; or
  - (c) The agreement is non-*Title IV-E* funded and the parent or legal guardian of the *child* or *young adult* is residing in Oregon.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0455**

### **Out-of-State Placements**

(Amended 06/12/14)

- (1) The Consolidated Omnibus Budget Reconciliation Act of 1985 (*COBRA*) provides for Child Welfare *Title XIX Medicaid* coverage in the state of residence for a *child* or *young adult* receiving *Title IV-E* foster care payments.
- (2) A *child* or *young adult* who is *Title IV-E* eligible in Oregon and placed in *substitute care* in another state is eligible for *Title XIX Medicaid* in the state of residence.
- (3) A non-*Title IV-E child* or *young adult* in DHS care or *custody* and placed in another state must contact the Child Welfare *Title XIX Medicaid* agency in that state for a *Title XIX Medicaid* determination. If that state determines the *child* or *young adult* is not eligible for *Title XIX Medicaid*, the *child* or *young adult* may be eligible for Oregon's Child Welfare *Title XIX Medicaid* or *General Assistance* medical if the *child* or *young adult* meets the eligibility requirements. (See OAR 413-100-0430)

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0460**

### **Citizenship and Alienage**

(Amended 06/12/14)

- (1) To be eligible for medical assistance under Child Welfare *Title XIX Medicaid*, the *child* or *young adult* must meet the requirements of one of the following subsections:
  - (a) Be a United States citizen.
  - (b) Be a qualified non-citizen under section (2) of this rule who meets the alien status requirements in section (3) of this rule.
  - (c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands.
  - (d) Be a national from American Samoa or Swains Islands.
- (2) An individual is a qualified non-citizen if the individual is any of the following:
  - (a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 USC 1101 et seq.).

- (b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 USC 1157).
  - (c) A non-citizen who is granted asylum under section 208 of the INA (8 USC 1158).
  - (d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 USC 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 USC 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).
  - (e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 USC 1182(d)(5)) for a period of at least one year.
  - (f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 USC 1153(a)(7)) as in effect prior to April 1, 1980.
  - (g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).
  - (h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.
  - (i) A battered spouse or dependent *child* who meets the requirements of 8 USC 1641(C) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.
- (3) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following requirements:
- (a) The individual is under 19 years of age.
  - (b) The individual was a qualified non-citizen before August 22, 1996.
  - (c) The individual physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.
  - (d) The individual has been granted any of the following alien statuses:
    - (A) Refugee under section 207 of the INA.
    - (B) Asylum under section 208 of the INA.

- (C) Deportation being withheld under section 243(h) of the INA.
  - (D) Cubans and Haitians who are either public interest or humanitarian parolees.
  - (E) Immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
  - (F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 USC 7101 to 7112).
  - (G) A family member of a “victim of a severe form of trafficking in persons” who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 USC 7101 to 7112).
  - (H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (e) The individual is an American Indian born in Canada to whom the provisions of section 289 of the INA (8 USC 1359) apply.
  - (f) The individual is a member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 USC 450(e)).
  - (g) The individual is a veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 USC 5303A(d).
  - (h) The individual is a member of the United States Armed Forces on active duty (other than active duty for training).
  - (i) The individual is a spouse or a dependent child of an individual described in subsections (g) or (h) of this section.
- (4) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:
- (a) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.
  - (b) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the U.S. Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

- (A) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a).
  - (B) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b).
  - (C) A Cuban-Haitian entrant, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended.
  - (D) A Family Unity beneficiary pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended.
  - (E) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President of the United States;
  - (F) An alien currently in deferred action status pursuant to U.S. Department of Homeland Security Operating Instruction OI 242.1(a)(22).
  - (G) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.
- (c) An individual in non-immigrant classification under the INA who is permitted to remain in the United States for an indefinite period, including individuals as specified in section 101(a)(15) of the INA (8 USC 1101).
- (5) In order for the Department to authorize benefits, there must be proof that a *child* or *young adult* is a United States citizen or is in the country legally. Birth certificates, citizenship papers, alien registration cards, permanent visas, and Cuban and Refugee registration cards may be used as proof.
  - (6) An individual granted status under the Deferred Action for Childhood Arrivals (DACA) program is not eligible for medical assistance under Child Welfare Title XIX Medicaid unless the individual qualifies for an immigration status that provides medical eligibility under this rule apart from the individual's DACA status.
  - (7) A non-citizen whose immigration status cannot be verified at intake, but who declares a non-citizen status that in the absence of any contradictory evidence would qualify the non-citizen for full benefits, may be provided full benefits pending verification. There are no overpayments should the approved applicant's status, upon verification, prove to be at the Citizen Alien Waived Emergent Medical (CAWEM) level only.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## **413-100-0530**

### **Compliance**

*(Amended 06/12/14)*

- (1) The Department is responsible for compliance with the requirements of the Office of Management and Budget, OMB Circular A-133, available at:  
[http://www.whitehouse.gov/omb/circulars/a133\\_compliance\\_supplement\\_2011](http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2011).
- (2) All cases to be reviewed by state auditors, including internal audits, or federal auditors are requested through the Department's Federal Compliance Unit. All case material (eligibility and service records) are made available for review upon request. The cases are randomly selected and must meet the criteria specific to the requirements of state and federal auditors.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

# Child Support Referrals

---

## 413-100-0800

### Child Support Referrals

(Amended 04/01/16)

- (1) The parents of a *child* in a paid *substitute care* placement may be required to make monthly *child support* payments to the state until one of the following occurs:
  - (a) The *child* is reunified with the *parent*.
  - (b) The *child* turns 18 or as long as the child is attending school as defined in ORS 107.108.
  - (c) Parental rights have been terminated or relinquished.
- (2) If there is an active child support case in which one *parent* is paying the other, the Department will refer the case to the Division of Child Support (DCS) to assign *support* payments to the Department.
- (3) If there is not an existing *child support* order, the Department will refer the case to the DCS to establish a *child support* order unless one of the following applies:
  - (a) The Post Adoption Program determined not to initiate a referral to DCS.
  - (b) The *parent* is deceased.
  - (c) The *parent* is receiving Supplemental Security Income (SSI) benefits.
  - (d) The *parent* is a Social Security Disability or Retirement beneficiary.
  - (e) The *parent* is under the age of 18.
  - (f) The *parent* has a developmental disability and is incapable of supporting the *child* or themselves.
  - (g) The *parent* has significant mental health issues that prevent gainful employment.
  - (h) The *parent* is homeless and incapable of supporting the *child* or themselves.
  - (i) The *parent* is receiving Temporary Assistance for Needy Families (TANF) benefits.
  - (j) The *parent* is or will be incarcerated for more than six months.



- (k) The *parent* is compliant with the reunification plan and the Department caseworker believes enforcement of a support order would negatively impact the plan.
  - (l) The *parent* is actively participating in a treatment program.
  - (m) There is a prior finding of "good cause" as defined under OAR [461-120-0350](#), and after re-evaluation remains in effect.
  - (n) If reunification is no longer the plan and the plan changes to relinquishment or termination of parental rights.
  - (o) The parents would be unable to comply with the permanency plan of reunification due to the financial hardship caused by paying *child support*.
  - (p) The *child* is expected to be in paid *substitute care* for only a short period of time.
  - (q) The noncustodial *parent* is a potential resource.
  - (r) Other appropriate circumstances determined by the Department.
- (4) If a *child* enters paid *substitute care* following adoption in Oregon or another state or country and is receiving an *adoption assistance payment*:
- (a) The Department must review the payment and may discuss renegotiation with the *parent*; and
  - (b) The Post Adoptions Program Manager or designee has authority to determine whether the Department would initiate a referral for *child support*. The following factors must be considered:
    - (A) Reason the *child* entered care;
    - (B) Amount of *adoption assistance payment*;
    - (C) *Parent* involvement in the permanency plan; and
    - (D) Any other considerations involving the best interests of the *child*.
- (5) A determination to not refer a *parent* to DCS does not prohibit the Department from making a referral in a subsequent episode of Department custody.
- (6) A determination to not refer a *parent* to DCS does not prohibit the Department from re-evaluating intermittently during the same episode of care.

- (7) The Department must inform a *parent* that the *parent* may be required to pay *child support*.
- (8) The Department must notify DCS when:
  - (a) The *child* or *young adult* exits paid *substitute care*; or
  - (b) Parental rights have been terminated or relinquished.

Stat. Auth.: ORS 412.024, [418.005](#)

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, [418.005](#), 418.032

### **413-100-0810**

#### **Child Support Arrears Owed to Department**

*(Amended 04/01/16)*

- (1) *Child support* arrears resulting from nonpayment during an episode of Department custody will be assigned and payments disbursed as prescribed by law.
- (2) Any *child support* arrears owed to the Department after termination of assignment to the Department will be collected by DCS and payments disbursed to the Department until the debt for past paid *substitute care* is fulfilled, or until the legal time frame for collection of the debt expires whichever is earlier. The legal time frame for collection of the debt expires 35 years from the judgment date.
- (3) With approval of the Child Permanency Program Manager or designee or the Federal Compliance Program Manager or designee, DCS may grant:
  - (a) A file credit, wherein the *child support* arrears are not actively pursued, but will remain on file, and the agency reserves the right to collect the arrears at a later date; or
  - (b) A satisfaction on the arrears, wherein the *child support* arrears are forgiven through the court and the agency may not attempt to collect from the *parent*.

Stat. Auth.: ORS 412.024, [418.005](#)

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, [418.005](#), 418.032

### **413-100-0820**

#### **Handling DCS Case Information**

*(Amended 04/01/16)*

- (1) The Department may obtain an absent parent's place of residence and demographic information from a *child support* case to be used for the administration of Department

programs. This information may be entered in the Department's electronic information system when verified. However, child support case screens may not be printed or reproduced.

- (2) The Department may make application through the Federal Parent Locate Service for the purpose of establishing paternity and enforcement when an absent parent's whereabouts are not readily available through an existing paternity establishment or *child support* case.

Stat. Auth.: ORS 412.024, [418.005](#)

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, [418.005](#), 418.032

### **413-100-0830**

#### **Paternity and Parentage Establishment**

*(Amended 04/01/16)*

The Department will refer *substitute care* cases to DCS for establishment of parentage under any of the following circumstances:

- (1) Only one parent is listed on the child's birth record; or
- (2) The Department has not begun the parentage establishment process through genetic testing.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS 109.010, 109.015, 109.070, 180.320, ORS 419B.875

# Exhibit 1 – Applicable Child – Age

---

OAR 413-100-0335

## Applicable Child – Age

In Federal Fiscal Year (FFY) 2010, the applicable age for a child begins at 16 years of age and decreases by 2 years of age in each FFY until FFY 2018. Effective January 1, 2018, Family First Act legislation revised the eligible age criteria by delaying the decrease in the applicable age from 2 years of age. Starting October 1, 2025, the applicable child eligibility requirements apply to a child of any age. The charts provided below illustrate the phased-in applicability of the revised eligibility criteria ([42 U.S.C. 673](#)).

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017 - 2023	2
2024	2 (Or in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age.)
2025 or thereafter	Any age.