



State of South Carolina

Department of Social Services

Policies and Guidelines: Child Welfare Services

Subject	Adoption Assistance Payments
Authority	42 USC 673; Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351); The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193); S.C. Code Section 8-29-10; S.C. Code Sections 63-9-1700, et.seq.; S.C. Code of Regulations Sections 114-100 through 130 ; 114-150(C); and 114-4380
Standards	Guiding Principles and Standards (GPS) Practice Model
Application	Regional Adoptions Staff and State Office Adoptions Staff
Purpose	
The policies and procedures in this section assist State Office Adoptions staff in evaluating the circumstances of prospective adoptive parents, a child's special needs, and the appropriate funds to assist the adoptive family in meeting those needs. This section defines the various types of Adoption Assistance, the duration of eligibility to receive Adoption Assistance Payments, and the availability of an administrative appeal process for prospective adoptive parents who are aggrieved by an adverse agency decision related to Adoption Assistance Payments	
Policy Statement	
The South Carolina Department of Social Services (DSS) must enter into a written Adoption Assistance Agreement with the adoptive parents of a Special Needs Child as outlined in this policy. DSS must provide Non-Title IV-E Funded or Federal Title IV-E Funded Adoption Assistance Payments, as applicable, if the requirements in this policy are met. In the case of children who are in foster care, after DSS has determined a child cannot or should not return to the home of the parents and before DSS places a child for the purpose of adoption, DSS provides written information to prospective adoptive parents explaining the availability of Adoption Assistance Payments for a Special Needs Child.	
Policy Administration	
The Division of Permanency Management is the owner of this policy. The director of Permanency Management, or director's designee, will review this policy on an annual basis and request updates as needed.	
Policy Guidelines	
A. General Eligibility Requirements	1. Generally, a child is eligible to receive, Non-Title IV-E Funded or Federal Title IV-E Funded Adoption Assistance Payments, as applicable, if DSS determines the child is a Special Needs Child.

Subject: Adoption Assistance Payments

	2. The type of Adoption Assistance a child receives is based upon consideration of more specific eligibility requirements as outlined in the following procedures, but may include: a. Monthly Adoption Assistance Payments; b. Medicaid c. Supplemental Benefits for Medical Assistance; and d. Non-recurring Cost associated with the finalization of adoption, in an amount not to exceed \$1500 reimbursed after the filing of a Final Adoption Decree. 3. DSS initiates a negotiation about the adoption subsidy amount; however, the Adoption Assistance Payment may not exceed the amount of the foster care board payment the adoptee would be entitled to receive if the adoptee were in foster care. 4. An Adoption Assistance Agreement must be signed by the DSS State Office and the prospective adoptive parents and must be in effect prior to the entry of a Final Adoption Decree. 5. Persons who are adopting children placed by the DSS for adoption must meet the requirements for approval found in S.C. Code of Regulations 114-550, Licensure of Foster Family Homes and Approval of Adoptive Homes for Children in Foster Care.
B. Non-Title IV-E Funded Adoption Assistance	1. The primary goal of Non-Title IV-E Funded Adoption Assistance is to provide financial support to families who adopt Special Needs Children from the State's foster care system. Eligibility for children who are not in the DSS custody will be determined on a case-by-case basis. 2. In order for a child to be eligible for Non-Title IV-E Funded Adoption Assistance, the DSS shall determine if the child is legally free for adoption and the child has been placed for adoption by DSS. Non-Title IV-E legally free means that Termination of Parental Rights has been held and the legal clearance letter has been issued. Additionally, one of the following provisions also must apply: a. The child is a Special Needs Child because: i. the child is a member of a sibling group; ii. the child is a member of a marginalized ethnic group, including African American, Native American, or Hispanic; iii. the child is age six or older; or iv. the child has physical, mental, or emotional disabilities b. The child is at high risk of developing a physical, mental, or emotional disability; c. The child is one for whom other factors, as determined by the department, interfere with the child's ability to be placed for adoption; or d. The child has established significant emotional ties with prospective adoptive parents while in their care as a foster child,

Subject: Adoption Assistance Payments

	and it is considered by the DSS to be in the best interest of the child to be adopted by the foster parents. Note: Adoptive parent(s) must submit written documentation to DSS to substantiate the need for extending Title IV-E monthly adoption assistance beyond age the DSS will determine if such submitted documentation is sufficient to warrant continued financial assistance. 3. The case manager completes DSS Form 3052: Adoption Subsidy Agreement and outlines all relevant categories including both DSS and the prospective adoptive parents signing the agreement. 4. To have Non-Title IV-E Funded Adoption Assistance Payments to continue beyond one year, the adoptive parents must use the DSS Form 3050: Subsidized Legal Guardianship and Adoption Assistance Recertification Documentation List to certify that the child remains under the care of the adoptive parents and the need for Non-Title IV-E Funded Adoption Assistance continues. Based upon the certification, the DSS may continue Non-Title IV-E Funded Adoption Assistance Payments as long as there is continuing need and the child is the legal dependent of the adoptive parents. In no case may Adoption Assistance Payments be made beyond the child's twenty-first birthday.
C. Title IV-E Funded Adoption Assistance	The primary goal of Title IV-E Funded Adoption Assistance is to provide financial support to families who adopt Special Needs Children from the public foster care system. However, for those children who are not in DSS custody, the prospective adoptive parent must apply prior to the entry of a Final Adoption Decree and provide proof of "special needs" and Title IV-E eligibility. Eligibility for children who are not in DSS custody will be determined on a case-by-case basis. Depending upon whether the child is an Applicable Child or a Non-Applicable Child, the child is eligible for Title IV-E Adoption Assistance upon meeting the following requirements: 1. Applicable Child Determination a. An Applicable Child is a child who the DSS has determined to be a Special Needs Child and is aged three or older by September 30th in the year in which their adoption is finalized. Special Note: Effective January 1, 2024, all Special Needs Children in foster care will be considered an Applicable Child. Or b. A child of any age on the date on which an Adoption Assistance Agreement is entered into on behalf of a child, if the child has been in foster care under the responsibility of the DSS for at least 60 consecutive months and:

Subject: Adoption Assistance Payments

	i. At the time of initiation of adoption proceedings, the child is in the DSS custody pursuant to an involuntary removal based upon a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child or voluntary placement agreement; or voluntary relinquishment, or ii. The child meets all medical or disability requirements of Title XVI with respect to eligibility for SSI Benefits, or iii. The child was residing in a foster family home or group home with the child's minor parent, and the child's minor parent is in the DSS custody pursuant an involuntary removal based upon a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child or voluntary placement agreement; or voluntary relinquishment, and iv. The DSS has determined that the child is a Special Needs Child Or c. A child of any age on the date on which an Adoption Assistance Agreement is entered into on behalf of the child if the child is a sibling of a child who is an Applicable Child for the fiscal year; and is to be placed in the same adoption placement as a sibling who is an Applicable Child for the fiscal year and; i. At the time of initiation of adoption proceedings, the child is in the DSS custody pursuant an involuntary removal based upon a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child or voluntary placement agreement; or voluntary relinquishment or, ii. The child meets all medical or disability requirements of Title XVI with respect to eligibility for SSI Benefits, or iii. The child was residing in a foster family home or group home with the child's minor parent, and the child's minor parent is in the DSS custody pursuant an involuntary removal based upon a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child or voluntary placement agreement; or voluntary relinquishment, and iv. The DSS has determined that the child is a Special Needs Child d. For an Applicable Child to be considered a Special Needs Child: i. The DSS shall have determined the child is legally free. For the purpose of determining eligibility for Title IV-E Adoption Assistance, a child is legally free when the DSS has determined the child cannot or should not be returned
--	---

Subject: Adoption Assistance Payments

	home. This determination must be made pursuant to established criteria including, but not limited to, a Petition for the termination of parental rights, a Final Order terminating parental rights, or signed relinquishments; and either ii. The DSS has determined there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional disabilities) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing Title IV-E Adoption Assistance and medical assistance pursuant to Title XIX (Medicaid); or iii. The child meets all medical or disability requirements of Title XVI with respect to eligibility for SSI Benefits; and iv. The DSS has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing Adoption Assistance or Medicaid. 2. Applicable Child Eligibility a. Once a child is determined to be an Applicable Child, the child is eligible to receive Adoption Assistance Payments if the following criteria are met at the time of initiation of adoption proceedings: i. The child was removed to DSS custody pursuant to a judicial determination to the effect that continuation in the home would be contrary to the child's welfare, voluntary placement agreement, or voluntary relinquishment; or ii. The child meets all medical or disability requirements of Title XVI with respect to eligibility for SSI Benefits; or iii. The child was residing in a foster family home or group home with the child's minor parent, and the child's minor parent was in such foster family home or group home pursuant to a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child or voluntary placement agreement or voluntary relinquishment; and iv. The DSS has determined the child is a Special Needs Child b. An Applicable Child will be treated as meeting the requirements to receive Adoption Assistance payments if: i. The DSS determines the child has Special Needs;
--	--

Subject: Adoption Assistance Payments

	ii. The child has been determined eligible for Adoption Assistance payments with respect to a prior adoption; and iii. The child is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the adoptive parents have died. 3. Non-Applicable Child Determination The Non-Applicable Child is a child who does not meet the criteria for the Applicable Child designation as described above. 4. Non-Applicable Child Eligibility a. The Non-Applicable Child must meet the following definition of Special Needs Child: i. The DSS must determine the child is legally free, e.g., cannot or should not be returned to the home of the parents; and ii. The DSS has determined there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional disabilities) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents, without providing Title IV-E Adoption Assistance and medical assistance pursuant to Title XIX (Medicaid); and iii. The DSS has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing Adoption Assistance or Medicaid. b. The child was removed from the home of a relative and placed in foster care in accordance with a voluntary placement agreement and a Title IV-E foster board payment was made on the child's behalf during the voluntary placement period or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child, and i. Received Aid to Families with Dependent Children (AFDC) in that relative's home under the State plan approved under section 402 of the Social Security Act (as in effect July 1996), or would have received AFDC under such plan had application been made, in or for the month the voluntary placement agreement was entered into, or in accordance with a judicial determination to the effect that continuation
--	--

Subject: Adoption Assistance Payments

	in the home would be contrary to the welfare of the child; or ii. The child had been living with a relative, within six months before the month in which a voluntary placement agreement was entered into or court proceedings leading to the judicial determination which indicated it was contrary to the child's welfare to remain in the home and would have received AFDC in that relative's home under the State Plan approved under section 402 of the Act for that month, if in that month the child had been living with such relative and application had been made; or iii. The child meets all the requirements of Title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income (SSI) benefits; or iv. Is 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 minor parent of the child. v. In the case of a child who is a Non-Applicable Child for the fiscal year, the child will be treated as meeting the requirements to receive adoption assistance payments if the DSS determines the child is a Special Needs Child and: • is determined eligible for Title IV-E funded adoption assistance payments with respect to a prior adoption; • is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and fails to meet the AFDC eligibility requirements of the Social Security Act Section 473(a)(2)(A)(i) but will meet requirements if the child is treated as if the child is in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under Section 473 of the Social Security Act and the prior adoption is treated as never having occurred. Note: <i>A voluntary relinquishment of a child to an agency does not, in and of itself, allow for the child to be Title IV-E eligible. The state must petition the court within six months of the child living with a specified relative to obtain a judicial determination to the effect that remaining in the home would be contrary to the child's welfare. Thus, the child's eligibility is treated as a judicial determination rather than a voluntary relinquishment for adoption assistance eligibility purposes.</i> Note: <i>In determining the eligibility for Adoption Assistance Payments for a child in a Subsidized Legal Guardianship arrangement, the placement of the child with the kin or fictive kin and any kinship</i>
--	--

Subject: Adoption Assistance Payments

	<i>guardianship assistance payments made on behalf of the child shall be considered never to have been made.</i>
D. Determining Title IV-E and Non-Title IV-E Eligibility for Adoption Assistance	1. For both Title IV-E and Non-Title IV-E Eligibility All initial Monthly Adoption Assistance Application or Agreement packages shall contain specific required documentation and will be linked in the State Office Adoption Financial Folder and be maintained in the child's adoption case record. 2. For Title IV-E Eligibility a. The following items must be provided by the adoption specialist to the State Office Adoptions Staff for approval of Title IV-E eligibility prior to the signing of the adoptive placement agreement, i. DSS Form 3052: Adoption Subsidy Agreement or ii. Financial assistance agreement application for Title IV-E eligibility form DSS Form 2548: Determination of Title IV-E Adoption Assistance Eligibility b. State Office Adoption Assistance Title IV-E Coordinator reviews documentation and determines eligibility for Title IV-E financial assistance. The coordinator provides approval to the Adoption Specialist prior to signing the Adoptive Placement Agreement and Financial Assistance Agreement.
E. Verification of U.S Citizenship or Immigration Status	1. Non-Title IV-E a. The DSS must verify citizenship or immigration status of any person 18 years or older who applies for or is a recipient of public benefits, including foster care board, adoption assistance, and subsidized legal guardianship assistance payments. b. Non-Title IV-E assistance payments (foster care board, adoption, and subsidized legal guardianship) are available to children under the age of 18, regardless of immigration status. However, upon attaining the age of 18, a child who is receiving Non-Title IV-E assistance payments and who is not a U.S. citizen, legal permanent resident, or "qualified alien" is ineligible for continued assistance. c. Verification of lawful presence in the United States must occur as follows: i. The applicant (young adult) must execute an affidavit that he or she is a U.S. citizen or a legal permanent resident; or ii. The applicant (young adult) must execute an affidavit that he or she is a "qualified alien" or nonimmigrant under the Federal Immigration and Nationality Act P.L. 82-414 and lawfully present in the U.S. d. For any person (young adult) who has executed an affidavit that he or she is an alien lawfully present in the U.S., eligibility for assistance shall be made through the Systematic Alien Verification of Entitlement (SAVE) Program operated by the U.S. Department of Homeland Security.

Subject: Adoption Assistance Payments

	2. Title IV-E a. DSS must verify the citizenship or immigration status of any child in the legal custody of the DSS, without regard to whether the child is receiving Title IV-E foster care board payments. b. Title IV-E assistance payments (foster care board, adoption, and subsidized legal guardianship) are limited to U.S. citizens and “qualified aliens,” as defined in 8 USC 1641(b), which includes certain permanent residents, asylees, and refugees. Children who are undocumented immigrants are not eligible for Title IV-E assistance payments. c. Generally, a “qualified alien” must live in the United States for five years before becoming eligible for Title IV-E assistance payments. However, the five-year residency requirement does not apply to the child if the adoptive parents/legal guardians are U.S. citizens or “qualified aliens.” d. However, a child who is not a U.S. citizen or resident of the U.S. and was adopted outside the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for assistance payments if the initial adoption of the child is a failure and the child is subsequently placed in foster care.
F. Medicaid	1. Children who are receiving Title IV-E Adoption Assistance are entitled to receive Medicaid coverage in any State, in which the child or adoptive family reside, pursuant to Title XIX (Medicaid) and Title XX (Social Services) of the Social Security Act. 2. Children receiving Non-Title IV-E Adoption Assistance are also eligible to receive Medicaid coverage; however, if the adoptive family relocates to another state, Medicaid coverage and the related access to health care services for the child will be contingent on whether the future state of residence extends COBRA-reciprocity to children receiving Non-Title IV-E Adoption Assistance Medicaid. Note: <i>This means if the adoptive family moves to a state that does not have an agreement with South Carolina, the adoptive family may not be able to obtain health care coverage for the adopted child through the state’s Medicaid program based on their receipt of Adoption Assistance Payments.</i>
G. Non-Recurring Adoption Assistance	1. The DSS must enter an Adoption Assistance Agreement prior to the finalization of the adoption and reimburse the Non-recurring Legal Costs the adoptive parents incurred in order to finalize the adoption of a Special Needs Child. This amount of reimbursement shall not exceed \$1500 per child, per adoption. 2. Eligibility for Non-Recurring Adoption Assistance is based on the following factors: a. The DSS must determine the child is a Special Needs Child according to the following criteria:

Subject: Adoption Assistance Payments

	i. The child is a member of a sibling group; ii. The child is a member of a marginalized ethnic group; iii. The child is 6 years old or older; or iv. The child has physical, mental, or emotional disabilities. Note: for the definition of Special Needs Child see SSA 473(c). b. A child does not have to be Title IV-E eligible to receive benefits under this program. c. Children who have been approved for monthly Adoption Assistance Payments qualify for Non-recurring Legal Costs also. DSS Form 3052: Adoption Subsidy Agreement serves as the agreement for monthly Adoption Assistance Payments and Non-recurring Legal Costs. The Adoption Assistance Agreement must be signed and in effect prior to the entry of a Final Adoption Decree during a public adoption. d. Children who are not approved for monthly Adoption Assistance Payments or for whom only Non-recurring Legal Costs is being sought must have a completed signed the DSS Form 30125: Request for Non-Recurring Costs Reimbursement for Special Needs in place prior to the finalization of a private adoption. e. Children adopted from foreign countries are not eligible under this program unless the DSS determines the child is a Special Needs Child. This must be determined prior to the finalization of the adoption. i. If the adoption is finalized in the foreign country, the family will need to email documentation of special needs and verification that the child is free for adoption to the Adoption Subsidy Coordinator prior to finalization using the following email: privatenrcapps@dss.sc.gov ii. The special needs determination must be in place prior to finalization. f. Stepparent and birth parent adoptions do not meet the criteria for reimbursement of Non-recurring Legal Costs expenses. 3. The following must be maintained in the Adoption Assistance Case Record for Non-recurring Legal Costs: a. Special Needs determination b. Adoption Assistance Application, the DSS Form 30125: Non-Recurring Adoption Assistance Application, the DSS Form 3052: Adoption Subsidy Agreement signed by the agency representative and the adopting parents(s) prior to finalization. c. A narrative (background summary) which includes a description of the child's special needs, birth date, race; and efforts to place without assistance. d. For children receiving Non-Recurring Legal Costs only, the Adoption Assistance record must include verification that the
--	---

Subject: Adoption Assistance Payments

	child is legally free for adoption. (Termination of Parental Rights or Voluntary Surrender documents); e. Date and copy of the final decree which is signed and filed with the court; f. Receipts for expenditures; and g. Copy of DSS Form 3052: Adoption Subsidy Agreement which must be completed in its entirety.
H. Negotiating the Monthly Adoption Assistance Agreement	1. Requirements a. After the DSS has determined a child cannot or should not return to the home of the parents and before the DSS places a child for adoption, DSS provides written information to prospective adoptive parents explaining the availability of Adoption Assistance Payments for a Special Needs Child. b. The amount of the Adoption Assistance shall take into consideration the needs of the child being adopted and may be adjusted periodically with the concurrence of the adoptive parents to reflect changing circumstances, but in no event may an Adoption Assistance Payment exceed the amount a child would be entitled to receive as a foster care board payment if the child were in foster care. c. In determining eligibility for Adoption Assistance Payments, there is no income eligibility requirement (means test) for the adoptive parents. d. The DSS must determine that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing Adoption Assistance Payments or Medicaid. e. Negotiation of an Adoption Assistance Payment begins at \$0. However, the amount of the Adoption Assistance Payment may not exceed the amount the child would have received in foster care board payment. 2. Procedures a. Prior to the signing of the Adoption Assistance Agreement, the Adoption Specialist and the adopting family must discuss the current and future needs of the child, and the resources that are available to meet the child's needs. b. The case manager shall document that concerted efforts have been made to place the child in an adoptive home without Adoption Assistance Payments through the use of adoption resource exchanges, recruitment, and referral to appropriate specialized adoption agencies.

Subject: Adoption Assistance Payments

	c. Adoption Assistance Payments should not be confused with a foster care board payment. The DSS representative should explain that Adoption Assistance Payments are based on the current and projected future levels of functioning of the child and are designed to assist in meeting the cost of providing for the special needs of the child, not covered by Medicaid, that would otherwise have prevented the child from being adopted. d. With the understanding that the amount of Adoption Assistance may not exceed the family foster home board payment, the child would have received in foster care, the payment amount must be negotiated with the adoptive family. The adoptive parent(s) must be asked if they require Adoption Assistance in the adoption of the child(ren). If the parent(s) indicate a need for Adoption Assistance, the Adoption Assistance can then be discussed. e. The use of a means test is prohibited when determining eligibility for Adoption Assistance and when negotiating the Adoption Assistance payment amount. Adoption Assistance is not based upon a standard schedule of itemized needs and countable income. Instead, the amount of the Adoption Assistance payment is determined through the discussion and negotiation process between the adoptive parents and a representative of the State Office Adoption based upon the needs of the child and the circumstances of the family. The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child projected over an extended period and should cover anticipated needs. i. Review the resources and forms of support that are specifically designated for and available to the child, such as Retirement, Inheritance, Survivors, Disability Insurance (RSDI) or Veterans Administration (VA) benefits. These resources may be considered in combination with other factors when negotiation occurs. Any child who has funds in a trust account is potentially eligible to receive these funds once the adoption has finalized. After the DSS receives a Final Decree of Adoption, the adopting parent(s) shall be notified, in writing, about the availability of these funds in the child's account, and how to access them. ii. Adoption Specialist completes DSS Form 2549: Negotiation Checklist, following the negotiation with the family and forwards to his or her supervisor and area administrator for their review and signatures. The form is then forwarded to the adoption program director and Title IV-E subsidy coordinator. A copy is maintained in the child's adoption file and the Financial Assistance Record.
--	---

Subject: Adoption Assistance Payments

	iii. Community resources should be explored with the family, such as Mental Health Services, Educational Services, Public Health Services, etc. These services may be available to assist the adoptive family with a wide variety of needs related to their adopted child. iv. If a child is receiving SSI while in the custody of the agency, the adoptive family cannot receive two federally funded payments at one time. DSS, adoption specialist, notifies the family the child is receiving SSI and the state is utilizing said funds to reimburse the state for the child's foster care board payment and will continue to do so until such time the adoption is finalized. The adoptive family will receive the negotiated amount Adoption Assistance as Non-Title IV-E Adoption Assistance until the child's adoption is finalized. Once the adoption is finalized the SSA will determine the child's continued eligibility for SSI based upon the adoptive family's income. If the family is ineligible for SSI based upon their income, the family will then begin receiving Title IV-E Adoption Assistance. The Adoptive Family is advised to contact the Adoption Subsidy Coordinator should they be determined eligible to continue to receive SSI on behalf of the child. v. All prospective adoptive parents must be informed of their potential eligibility for the Federal Adoption Tax Credit by the State or Tribal Agency. Note: <i>The Adoption specialist is to notify Social Security Administration when the adoption is finalized, as well as the county bookkeeper that should additional checks be received on behalf of the child following the adoption finalization, the checks should be returned to the Social Security Administration, since the agency no longer has custody of the child.</i>
I. Reviewing and Signing the Adoption Assistance Agreement	1. The Adoption Assistance Agreement is a written agreement binding all parties, between the State agency, other relevant agencies, and the prospective adoptive parents. This agreement must be entered into by the prospective adoptive parents and the DSS prior to finalization of the adoption. The agreement must, at a minimum, specify the amount of the Adoption Assistance Payments and any other services or assistance (including Non-Recurring Legal Costs) to be provided, and state the duration of the agreement. The Adoption Assistance Agreement must specify the child's eligibility for Title XIX and Title XX, and that the agreement remains in effect regardless of the State of residence of the adoptive parents. The Adoption Assistance Agreement must contain provisions for the protection of the interests of the child in case the adoptive parents and child move to another State while the agreement is in effect. If a needed

Subject: Adoption Assistance Payments

	service in the agreement is not available in the new State service area of residence, the DSS remains financially responsible for providing the specified service. The Adoption Assistance Agreement must be signed and in effect prior to any Adoption Assistance Payments being made and before the filing of a Final Decree of Adoption. a. For the adoptive placement of children in the Legal Custody and Legal Guardianship of the DSS, e.g., children for whom the DSS has sole authority to consent to adoption, such as foster parent adoptive placements, the signing of the Adoption Placement Agreement, the DSS Form 3052: Adoption Subsidy Agreement will be coordinated with the approval of the Adoption Assistance Agreement. b. After the signing of the Adoption Placement Agreement, for children in the Legal Custody and Legal Guardianship of DSS, the Adoption Assistance Agreement, must be reviewed and signed in the presence of the adopting family. The Adoption Assistance Agreement must be signed by all parties including the Adoption Program Director prior to the finalization of the adoption. c. A copy of the Adoption Assistance Agreement, DSS Form 3052: Adoption Subsidy Agreement, must be provided to the adoptive family. However, all required signatures, including the Adoption Program Director or Designee, must be obtained on the Adoption Assistance Agreement, prior to forwarding a copy to the adoptive parent. d. All required parties must sign and date the Adoption Assistance Agreement to indicate agreement with the assigned benefits prior to Adoption Assistance Payments beginning. e. Each Section of the Adoption Assistance application must be reviewed and discussed with the adopting family. If the adopting family lives in another state and a face-to-face contact is not possible, the agreement must be negotiated through the mail, email, by telephone contact, or virtual means. In some situations, the Interstate Compact on the Placement of Children (ICPC) Office may assist in the negotiation. Sections of the Agreement that should be covered include: i. The negotiated Adoption Assistance payment amount. ii. Non-recurring Legal Costs and limits iii. The family's eligibility for Medicaid and their choice to utilize Medicaid alone or in conjunction with other insurance. iv. Duration of benefits: a) Discuss the effective date and the duration, and the reason for termination of the Agreement. b) The requirement that the family notify the county or state agency whenever there is a change in status which may affect the
--	--

Subject: Adoption Assistance Payments

	c) Child's continued eligibility for Adoption Assistance. d) With the adoptive parent(s) about the potential eligibility of the child to receive Adoption Assistance benefits past age 18 (see eligibility factors on the agreement) v. Protection of Adoption Assistance benefits, despite a family relocation to another state. 2. The payment amount may be decreased or increased after the Adoption Assistance Agreement is signed. Changes in the monthly payment only occur with the concurrence of the adoptive family. Depending upon the needs of the child, a mutual agreement may be made to decrease or increase the Adoption Assistance Payment of the child. Any request for an increase in the Adoption Assistance Payment must be forwarded to the state adoption subsidy coordinator and contain current and specific information regarding the changes in the needs of the child, to include current professional evaluation(s) specifically related to the special need(s) of the child, a statement from a professional who works with the child regarding the focus and frequency of treatment and the child's prognosis, a narrative regarding the effect upon the family that the change in the level of needs has had, and the efforts the family has made to meet those needs utilizing family/community resources. As stated previously, the payment amount assigned may not exceed the foster home board payment the child last received or would have received if in foster care. 3. Conditions under which an Adoption Assistance Agreement for Non-Title IV-E Adoption Assistance will be terminated are the following: a. The child has attained the age of 18; or b. The child has attained the age of 19, 20, or 21, if Adoption Assistance Payments continued beyond the age of 18 because the child was meeting at least one of the following requirements: i. completing secondary education or a program leading to an equivalent credential; ii. enrolled in an institution which provides post-secondary or vocational education; iii. Participating in a program or activity designed to promote or remove barriers to employment; iv. employed for at least 80 hours a month; v. incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation; or c. The child has attained 21 years of age, if DSS determines the child has a mental or physical disability which warrants the continuation of assistance to age 21; or
--	---

Subject: Adoption Assistance Payments

	d. The parents are no longer legally responsible for the support of the child who has not attained 18 years of age; or e. The adoptive Parents are no longer providing any support to the child. 4. Conditions under which an Adoption Assistance Agreement for Title IV-E Funded Adoption Assistance will be terminated are the following: a. The child has attained the age of 18; or b. A child who had attained age 16 before an Adoption Assistance Agreement went into effect has attained the age of 19, 20, or 21, if the Adoption Assistance Payments continued beyond the age of 18 because the child was meeting at least one of the following requirements: i. completing secondary education or a program leading to an equivalent credential; ii. enrolled in an institution which provides post-secondary or vocational education; iii. Participating in a program or activity designed to promote or remove barriers to employment; iv. employed for at least 80 hours a month; v. incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation; or c. The child has attained 21 years of age, if DSS determines the child has a mental or physical disability which warrants the continuation of assistance to age 21; or d. The parents are no longer legally responsible for the support of the child who has not attained 18 years of age; or e. The adoptive parents are no longer providing any support to the child. 5. The adoptive parents shall inform the DSS of any circumstances that would make them ineligible for Adoption Assistance Payments, including: a. The child's death; b. Cessation of the adoptive parent's legal responsibility for support of the child; or c. The child is no longer receiving support from the adoptive parents. 6. The adoptive parents shall also inform the DSS of any circumstances that would make them eligible for Adoption Assistance Payments in a different amount. 7. The DSS informs every individual who is adopting or whom the DSS is made aware is considering adopting a child from foster care
--	--

Subject: Adoption Assistance Payments

	about the potential eligibility for a Federal tax credit under Section 23 of the Internal Revenue Code of 1986. 8. The Adoption Assistance Payments may be paid directly through the DSS or through another public or nonprofit private agency, in amounts so determined through an Adoption Assistance Agreement. The Adoption Assistance Agreement must be signed and in effect prior to the finalization of the adoption. Adoption Assistance Payments may be made only to adoptive parents who have entered into an Adoption Assistance agreement with the DSS. This should be made clear to the adoptive parent(s) at the time of signing, if not earlier. Upon the death of an adoptive parent, Adoption Assistance may be transferred to another person who was not party to the original Adoption Assistance Agreement upon receipt of the prospective payee providing the agency with a copy of the legal documents making the person legally the guardian or custodian of the child. In the event of a divorce, the divorce decree must identify who has primary legal custody of the child to change the payee to only one parent. Otherwise, the payments will continue to be addressed to the adoptive parent who entered into the agreement with the agency. 9. The Adoptive Assistance Payment remains in effect regardless of the State of the residence of the adoptive parents. If the adoptive family lives in another state, SC will make the Adoptive Assistance Payments as per the agreed upon amount in the Adoption Assistance Agreement, DSS Form 3052: Adoption Subsidy Agreement. The family will be advised by the adoption specialist, to notify the agency of any address changes as per the Adoption Assistance Agreement, DSS Form 3052: Adoption Subsidy Agreement and any needs for assistance with Medicaid in the new state. Interstate Compact Adoption Medical Assistance (ICAMA) forms will be completed by the Adoption Subsidy Coordinator or designee. 10. The Adoption Specialist explains to the adoptive family that the adoptive assistance agreement contains provisions for the protection of the interests of the child in case the adoptive parents and child should move to another State while the agreement is in effect. Should the adoptive family move to another state prior to the finalization the adoption specialist will complete the necessary Interstate Compact on the Placement of Children (ICPC) packet. See section ICPC section of the manual. 11. If a needed service is agreed upon in the Adoption Assistance Agreement and the family moves to another state and the new States' Medicaid does not cover the specific service need, the DSS remains financially responsible for providing the comparable specified service(s). The adoptive family is urged to seek services and to
--	---

Subject: Adoption Assistance Payments

	notify DSS when assistance for referrals is needed in the new state. DSS will make contacts with the Adoption Services Agencies within the new state of residence to assist in locating needed services and to ensure referrals for services are made for the child and family. 12. The Adoption Specialist advises an adoptive family for the purposes of titles XIX and XX, any eligible child for whom there is an Adoption Assistance Agreement in effect under section 473(a)(2)(whether or not Adoptive Assistance Payments are being made) the child is deemed to be a dependent child as defined in 406 of the Act and is deemed to be a recipient of AFDC under part A of title IV of the Act (in effect 7/16/1996) in the State in which such child resides. Any child of such eligible child will be eligible for such services.
J. Approving the Monthly Adoption Assistance Package and Initiating Benefits	1. When a child is being approved for Adoption Assistance, the Adoption Specialist must have the adoptive family sign the Adoption Assistance Agreement, the DSS Form 3052: Adoption Subsidy Agreement, and forward the form to the Adoption Program Director for signature. The form is then forwarded to the Title IV-E Adoption Assistance Coordinator for verification of the eligibility, and then forwarded to the Adoption Subsidy Coordinator for the payment to be entered into the CAPSS system. 2. The foster care board payment must be terminated in CAPSS and the placement changed in order for the payment to be authorized. This step is completed by the adoption specialist and supervisor at the time of the adoptive placement agreement and Adoption Assistance Agreement being signed. 3. The Adoption Assistance Agreement must be submitted to the Director/Designee for review and approval. 4. The Adoption Director or Designee will review the Adoption Assistance Agreement, signing the Adoption Assistance Agreement, DSS Form 3052 Adoption Subsidy Agreement when satisfied with the accuracy and completeness. 5. The Adoption Assistance Agreement will be forwarded to the Adoption Eligibility Coordinator for verification and then to the Adoption Subsidy Coordinator to authorize the financial payment in CAPSS. To authorize said payment the Adoption Specialist or Supervisor must have made the necessary placement change and terminated the foster care board payment for the child. 6. A copy of the Adoption Assistance Agreement, DSS Form 3052: Adoption Subsidy Agreement, will be provided to the adoptive family. A copy will be maintained in the child's adoption file as well as in the state office financial assistance file.

Subject: Adoption Assistance Payments

K. Notification of Change	1. The adoptive family agrees to inform the DSS State Office Adoption immediately if any of the following occurs: a. Change in mailing address, contact information, and/or state of residence. b. The child is no longer residing in the family home. c. The adoptive parent(s) are no longer providing any support to the child. d. The adoptive parent(s) are no longer legally responsible for the child. e. Change to the payee section of the Adoption Assistance Agreement, i.e. death of one of the adoptive parents, divorce with court order amending payee, etc. the DSS will review on a case by case basis. f. Any change in circumstances that may affect eligibility to receive an Adoption Assistance Payment. 2. Failure to report changes may result in an overpayment which may be recovered by a direct charge or reduction in current or future Adoption Assistance benefits.
L. Approving the Non-Recurring Legal Cost Adoption Assistance Application Package and Initiating Payments for Private Domestic Adoptions	1. The Adoptive Family, family's private attorney or the family's Private Agency shall submit the Non-Recurring Expenses Application Package to the Adoption Subsidy Coordinator. 2. The coordinator will review the application package and supporting documentation and approve or deny the request. 3. The Adoption Subsidy coordinator shall notify the family of the decision and send them their copy of the DSS Form 3052: Adoption Subsidy Agreement. 4. The Family will provide the accounting staff with a copy DSS Form 3052: Adoption Subsidy Agreement and all supporting documentation. 5. The payment may be made to either the provider or the parent directly. Both require invoices and documentation of expenses paid and the completion of the W9 form. 6. Payment will not be made until proof of finalization is obtained by the family in the form of a Final Adoption Decree which has been signed and filed with the Family Court.
M. Supplemental Benefit for Medical Assistance (SBMA) Guidelines	1. Only children who are eligible to receive monthly Adoption Assistance Payments are eligible to receive Supplemental Benefits for Medical Assistance (SBMA). To receive SBMA, a Special Needs Child must fall into one of the following categories: a. Receiving payments for medical, rehabilitative, or other treatment services immediately before adoption for a physical, mental or emotional condition;

Subject: Adoption Assistance Payments

and procedures for payment	b. Identified before adoption as being at high risk of developing a physical, mental, or emotional condition in the future; or c. With a physical, mental, or emotional condition diagnosed after adoption if the condition existed before adoption but was not recognized or if substantial risk factors for the condition existed before adoption but was not recognized. d. SBMA may supplement, but does not replace private health insurance, Medicaid, BABYNET, Individualized Education Programs, or other resources available to the family. The family will access these resources first before requesting SBMA funds. 2. State Office Adoptions must give approval to any use of the SMBA funds and may require documentation prior to any approval or denial being issued. 3. DSS may decline to approve requests for expenditures for items other than those listed below. This list is not exhaustive. SBMA cannot be used for the following: a. Experimental or “alternative” treatment services, medication, nutritional supplements, exceptions may be made by State Office Adoptions on a case-by-case basis. b. Treatment related equipment, treatment services, or medication which is not in accordance with generally accepted standards of medical practice or FDA approved; c. Procedures solely or primarily for cosmetic purposes, which are unrelated to any necessary medication conditions. 4. The adoptive parents(s) agree: a. To a set SBMA funding amount per authorization year, which is one year following the signing of an Adoption Assistance Agreement; b. SBMA funds do not carry over from one authorization year to the next, depending on appropriations; c. SBMA funds renew each year on the child’s anniversary date which is the date of the Adoption Assistance Agreement; and d. The adoptive parent(s)’s request for SBMA payments must be submitted to DSS using DSS Form 30129: Adoption Reimbursement Request. 5. The adoptive parent(s)’s request for SBMA payments must be submitted to the DSS using DSS form 30129: Adoption Reimbursement Request. The DSS Form 30129 may be mailed to PO Box 1620, Columbia, SC 29202, emailed to supplementalreimbursementrequests@dss.sc.gov or faxed to (803) 898-1209. The DSS will notify the adoptive parent(s) if further documentation is required. The DSS will determine whether the payment amount is allowable. The DSS may disapprove the payment if sufficient funds
----------------------------	---

Subject: Adoption Assistance Payments

	are not available for the programs or if the child's funding level for the year has been reached.
N. Termination of Adoption Assistance Services	1. Title IV-E Termination of Adoption Assistance Services a. Termination of Monthly Adoption Assistance Payment, Medicaid Coverage, and/or Supplemental Benefits for Medical Assistance (SBMA) occur in the following circumstances: i. The adoptive family is no longer legally responsible for the support of the child i.e. parental rights have been terminated or relinquished, adoptive parents are deceased (1 in a 1 parent home or both in a 2 parent home), child was emancipated, etc. ii. The adoptive family is no longer financially supporting the child, i.e. child is living independently, child is in the military, etc. iii. Death of the child iv. The child has attained the age of 18 or 21, as applicable b. For the child to continue to receive Adoption Assistance Payments past their 18th birthday one of the following criteria must be met: i. Completing high school or equivalency program; or ii. Enrolled in a post-secondary or vocational school; or iii. Participating in a program or activity that promotes or removes barriers to employment (i.e. Voc Rehab, Job Corp, etc); or iv. Is employed 80 hours per month; or v. Is incapable of participating in a through d above, due to a mental or physical disability Note: Documentation must be provided for any of the items above to extend the subsidy payment past the child's 18th Birthday. Documentation must be for the current year/semester at time of submission, current medical or mental health record, current paystubs or letter from employer, letter from program or activity of involvement, and must be submitted by the adopted individual's 18th, 19th, and 20th birthday month each year. Documentation can be mailed to PO Box 1620, Columbia, SC 29202 Attn: State Office Adoptions or emailed to extendedsubsidydocuments@dss.sc.gov. The date used to determine when mail was sent is the postmarked date. c. Whenever possible, the DSS should seek to have a mutual agreement with the adoptive parents regarding whether to continue or discontinue Adoption Assistance Payments. d. Once an Adoption Assistance Agreement is in place, Adoption Assistance may not end solely because the death or disability of the adoptive parents and requires placement of the adopted

Subject: Adoption Assistance Payments

	child with another caregiver. The caregiver of the adopted child has the rights and duties imposed on the adoptive parents. 2. Non-Title IV-E Termination of Adoption Assistance Services a. Termination of Monthly Adoption Assistance Payment, Medicaid Coverage, and/or Supplemental Benefits for Medical Assistance (SBMA) occur in the following circumstances i. The adoptive family is no longer legally responsible for the support of the child i.e. parental rights have been terminated or relinquished, adoptive parents are deceased (1 in a one-parent home or both in a two parent home), child was emancipated, etc. ii. The adoptive family is no longer financially supporting the child, i.e. child is living independently, child is in the military, etc. iii. Death of the child iv. The child has attained the age of 18 or 21, as applicable b. For the child to continue to receive Adoption Assistance Payments past their 18th birthday one of the following criteria must be met: i. Completing high school or equivalency program; or ii. Enrolled in a post-secondary or vocational school; or iii. Participating in a program or activity that promotes or removes barriers to employment (i.e. Voc Rehab, Job Corp, etc); or iv. Is employed 80 hours per month; or v. Is incapable of participating in a through d above, due to a mental or physical disability Note: <i>Documentation must be provided for any of the items above to extend the subsidy payment past the child's 18th Birthday. Documentation must be for the current year/semester at time of submission, current medical or mental health record, current paystubs or letter from employer, letter from program or activity of involvement, and must be submitted by the adopted individual's 18th, 19th, and 20th birthday month each year. Documentation can be mailed to PO Box 1620, Columbia, SC 29202 Attn: State Office Adoptions or emailed to extendedsubsidydocuments@dss.sc.gov. The date used to determine when mail was sent is the postmarked date.</i> c. Whenever possible, the DSS should seek to have a mutual agreement with the adoptive parents regarding whether to continue or discontinue Adoption Assistance Payments. d. Once an Adoption Assistance Agreement is in place, Adoption Assistance may not end solely because the death or disability of the adoptive parents and requires placement of the adopted child
--	---

Subject: Adoption Assistance Payments

	with another caregiver. The caregiver of the adopted child has the rights and duties imposed on the adoptive parents.
O. Administrative (Fair) Hearings	1. An adoptive family may appeal an adverse decision related to Adoption Assistance Payments through the DSS fair hearing process. 2. Adverse decisions that are subject to the Administrative Fair Hearing Process are as follows: a. The Department denies a request for Adoption Assistance; b. The Department fails to notify or advise adoptive parent of the availability of Adoption Assistance for a Special Needs Child ; c. The adoptive parent believes the Department erroneously determined a child is ineligible for Adoption Assistance Payments; and d. The termination of Adoption Assistance Payments. 3. Appeal Process: a. The DSS shall send written notice of an adverse decision to the prospective adoptive parents by certified mail, return receipt requested. The notice shall state the department's decision and explain the basis for the decision. b. The Adoptive parent may request an Administrative Fair Hearing before the DSS Office of Administrative Hearings. c. Any request for a hearing must be made in writing to the Office of Administrative Hearings (OAH) within 30 days of receipt of notification of the Department's adverse decision. d. The OAH shall schedule a hearing to be held no sooner than 30 days and no later than 90 days after the receipt of the request for the hearing. e. The final decision of the hearing shall be made within 30 days of the date of the conclusion of the hearing and served on the parties by certified mail, return receipt requested.

Forms	DSS Form 2548: Determination of Title IV-E Adoption Assistance Eligibility DSS Form 2549: Negotiation Checklist DSS Form 3050: Subsidized Legal Guardianship and Adoption Assistance Recertification Documentation List DSS Form 30129: Adoption Reimbursement Request DSS Form 3052: Adoption Subsidy Agreement DSS Form 2548: Determination of Title IV-E Adoption Assistance Eligibility Applicable Child DSS Form 30125: Request for Non-Recurring Costs Reimbursement for Special Needs Private Adoptions DSS Form 30129: Adoption Reimbursement Request
--------------	--

Related Management Reports	
-----------------------------------	--

Glossary

Administrative (Fair) Hearing: an official state action required by Federal and State laws and regulations in accordance with the Fourteenth Amendment to the United States Constitution. The process allows an individual to contest an adverse action taken by the Department and to have his or her objections to the adverse action heard by an impartial hearing officer or committee

Adoption: the judicial act of creating the relationship of parent and child where it did not exist previously

Adoption Assistance Agreement (DSS Form 3052): a written agreement binding all parties, between the DSS and the prospective adoptive parents

Adoption Finalization: in response to a petition for adoption, a hearing held in Family Court to make final the termination of a child's biological parents rights and to create a parent child relationship where none previously existed

Adoption Final Decree: the court order issued following the Adoption Finalization hearing. The Decree establishes the legal relationship of parent child and allows for the amendment of the birth certificate to change the child's parents and the name of the child when requested.

Adoptive Placement: for a Special Needs Child who is in the permanent custody and guardianship of the DSS, the child is an adoptive placement when physically placed in the home of the adoptive parent(s) and the Placement Agreement (Form 3025) has been signed by all required parties.

Adverse Action: any action in which the Department denies, suspends, revokes, or refuses to renew a license or other permit to operate a child day care facility, foster home, child placing agency, residential child care facility, or group home; disqualifies a person from receiving benefits, or terminates, suspends, or decreases benefits, which the person was previously determined eligible to receive; or any other action deemed as adverse with a program specific section of the Department's Fair Hearing regulations.

Child:

For **Non-Title IV-E Adoption Assistance**

- a. A person under the age of 18; or
- b. A person 18, 19, or 20 who meets at least one of the following requirements:
 - 1) is completing secondary education or a program leading to an equivalent credential;
 - 2) is enrolled in an institution which provides post-secondary or vocational education;
 - 3) is participating in a program or activity designed to promote or remove barriers to employment;

Subject: Adoption Assistance Payments

- 4) is employed at least 80 hours a month; or
- 5) is incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation, and the presence of the condition is supported by regularly updated information

For Title IV-E Adoption Assistance

- a. A person under the age of 18;
- b. A child can remain Title IV-E eligible after turning 18, even if they were adopted younger than 16, if they were disabled prior to their 18th birthday;
- c. **With respect to a person for whom and Adoption Assistance Agreement went into effect after the person attained age 16**, a person 18, 19, or 20 who meets at least one of the following requirements:
 - 1) is completing secondary education or a program leading to an equivalent credential;
 - 2) is enrolled in an institution which provides post-secondary or vocational education;
 - 3) is participating in a program or activity designed to promote or remove barriers to employment;
 - 4) is employed at least 80 hours a month; or
 - 5) is incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation, and the presence of the condition is supported by regularly updated information

Interstate Adoption: the placement of a child who is a resident of the State of South Carolina into a family in another state for the purpose of adoption, or the placement of a child who is a resident of another state in South Carolina for the purpose of adoption

Means Test: an investigation of a person's financial resources, made to determine whether that person is eligible for various types of Public Assistance. A means test is not allowed when determining eligibility for Adoption Assistance or the Adoption Assistance rate

Medicaid: the medical benefits which are available for all children receiving Adoption Assistance in SC or in another state who have signed the (ICAMA), Interstate Compact for Medicaid Agreement

Non-Recurring Legal Costs: reasonable and necessary adoption fees, court costs, attorney fees which are directly related to the adoption of a special needs child, which are not incurred in violation of state or federal laws, and which have not been reimbursed from other sources or funds. Fees are not reimbursed until after finalization of the adoption

Parental Rights: parental rights are the legal rights, duties, obligations, of a parent to a child

Petition To Terminate Parental Rights: a written complaint which is filed in family court which sets forth the grounds to sever a parent-child relationship

SSI (Supplemental Security Income): supplemental Security Income is a monthly

Subject: Adoption Assistance Payments

benefit for children who are disabled or who have functional limitations as determined by the Social Security Administration

Non-Title IV-E Adoption Assistance: payments for the care and support of a Special Needs Child from foster care

Title IV-E Adoption Assistance: payments for the care and support of a Special Needs Child when that child meets certain eligibility requirements for federal financial participation as outlined in Title IV-E of the Social Security Act