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Administration
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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

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INFORMATION MEMORANDUM

TO: State, and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

SUBJECT: Adoption Incentive Payments

LEGAL AND RELATED REFERENCES: The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law [P.L.] 110-351); Sections 473(a)(1)(B)(ii), 473A, 474 and 479 of the Social Security Act (the Act).

PURPOSE: The purpose of this Information Memorandum (IM) is to inform States of the procedures for determining the Adoption Incentive grant amounts and the schedule of payments to be used by ACF in awarding the Adoption Incentive funds to States.

BACKGROUND: P.L. 110-351 reauthorizes the Adoption Incentive payment program under part E of title IV of the Act. The statute provides for payment of incentive funds to eligible States and Territories that increase the number of children adopted in specific circumstances. At this time Tribes are not eligible for Adoption Incentive payments. The amendments made by P.L. 110-351 became effective on October 7, 2008 and affect the incentive funds States earn for adoptions finalized during Fiscal Years (FYs) 2008 through 2012.

The 2008 amendments made by P.L. 110-351 continue to place an emphasis on the adoption of children with special needs and older children. Eligible States must exceed a baseline number of adoptions to qualify for incentive funds. States may earn incentives by exceeding the overall foster child adoption, older child adoption or special needs adoption baselines. With the enactment of P.L. 110-351, States may now also earn an additional incentive payment, dependent on the availability of funds, for exceeding the State's highest ever foster child adoption rate. Adoption Incentive funds will only be paid to the State agency for *finalized* adoptions. A total of up to \$43 million is authorized to be appropriated in each of FYs 2009 through 2013 in order to make incentive payments to eligible States.

INFORMATION

Program Definitions

The following are definitions of terms used in the Federal statute at section 473A(g) of the Act and this IM to establish baselines and provide adoption incentive funds are defined as follows:

- Foster Child Adoption

The finalized adoption of a child, who at the time of adoptive placement, was in public foster care under the placement and care responsibility of the State title IV-E child welfare agency in accordance with 45 CFR 1355.20, regardless of whether the child receives title IV-E adoption assistance. This includes any child who may have been in foster care consistent with this definition, but whose foster care or adoptive placement was supervised by another public or private agency under an agreement or contract with the State child welfare agency.

- Baseline of Foster Child Adoptions

The number of foster child adoptions in the State in FY 2007 as reported to the Adoption and Foster Care Analysis and Reporting System (AFCARS).

- Older Child Adoptions

Finalized adoption of a child age nine (9) and older who, at the time of adoptive placement was in public foster care *or* was the subject of a title IV-E adoption assistance agreement between the State child welfare agency and the child's adoptive parent(s). This also includes the finalized adoption of a child who, at the time of adoptive placement, was placed by an entity other than the State child welfare agency and became the subject of a title IV-E adoption assistance agreement between the State child welfare agency and the child's adoptive parent(s).

- Baseline of Older Child Adoptions

The number of older child adoptions in the State in FY 2007 as reported to AFCARS.

- Special Needs Adoption (That are Not Older Child Adoptions)

The finalized adoption of a child for whom a title IV-E adoption assistance agreement is in effect under section 473 of the Act between the State child welfare agency and the parents, regardless of whether the child was in foster care or placed for adoption by the State child welfare agency.

- o Baseline of Special Needs Adoptions

The number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007 as reported to AFCARS.

- Foster Child Adoption Rate

The foster child adoption rate is represented as a percentage which is determined by dividing the number of finalized adoptions in the State, during the fiscal year, by the number of children in public foster care on the last day of the preceding fiscal year, as reported to AFCARS.

- Highest Ever Foster Child Adoption Rate

The highest ever foster child adoption rate is the highest of all the foster child adoption rates determined for any fiscal year 2002 through the preceding fiscal year.

Eligibility Requirements

A State is eligible for an adoption incentive payment for a fiscal year, in accordance with section 473A(b) of the Act if:

1. The States has an approved plan under title IV-E; and
2. The number of foster child adoptions for the fiscal year exceeds the baseline for that fiscal year;

or

The number of older child adoptions exceeds the baseline of older child adoptions for the fiscal year;

or

The foster child adoption rate exceeds the highest ever foster child adoption rate;

3. The State submits AFCARS data in compliance with Federal regulations, enabling ACF to calculate the number of finalized adoptions in each category for a fiscal year; and
4. The State provides health insurance coverage to any child with special needs as determined under section 473(c) of the Act for whom there is an adoption assistance agreement, between the State and the child's parent(s).

Incentive Awards for Foster Child, Special Needs & Older Child Adoptions

Establishing Baselines

ACF establishes adoption baselines for each State based on AFCARS data submitted by the State to report the number of adoptions finalized during a fiscal year. The process for establishing adoption incentive baselines is based on the following principles:

- AFCARS is the sole source of data to determine State baselines per section 473A(c)(2) of the Act. If a State does not submit to ACF the AFCARS data on the number of finalized adoptions in each category for a fiscal year, it will not receive incentive payments for the category for which it did not submit data.
- AFCARS data on finalized adoptions will be subject to ACF verification and reconciliation to identify and remove duplicate records. This will assist ACF in determining accurate baseline and incentive payment levels.
- ACF will establish separate baselines for each category of adoptions.
- FY 2007 is the fixed year baseline for all three groups for each of FYs 2008 through 2012.
- **A State listing of FY 2007 adoption baselines for each category is included in Attachment A of this IM.**

Calculating Awards

Incentive funds earned by States within a fiscal year (earning year) are paid to States the subsequent fiscal year (award year). This is because the actual amount of incentive funds cannot be calculated by ACF until each State's AFCARS data are submitted after the end of the fiscal year for which the funds are awarded. Thus, incentive payments earned in FY 2008 would be paid to States in FY 2009 after the AFCARS submissions for FY 2008 are processed and reconciled by ACF. Payments may not occur until the latter part of the fiscal year.

All finalized adoption data for an earning year must be reported to ACF no later than **May 15th** of the subsequent fiscal year. *Thus, AFCARS data for FY 2008 must have been submitted by midnight, May 15, 2009.* This deadline was described in Program Instruction ACYF-CB-PI-04-03. Adoption data not received by the deadline will not be used to calculate adoption incentive awards or baselines.

The AFCARS adoption data elements required to calculate incentive payments are listed below.

- 01 State
- 02 Report period end date
- 03 Record number
- 04 State agency involvement
- 05 Date of birth
- 21 Date adoption legalized
- 34 Child placed by
- 37 Adoption assistance (title IV-E)

ACF reserves the right to adjust awards to States, as it deems necessary, based on AFCARS data reconciliation, fiscal year appropriation and the statutory payment formula. ACF will recover funds paid to a State as adoption incentive payments, if ACF determines that the AFCARS data submitted by the State reporting the number of finalized adoptions was in error.

Award Amounts

Section 473A(d)(1) and (2) of the Act provides for incentive payments for a fiscal year in accordance with the following:

- \$4000 for every foster child adoption over the foster child adoption baseline;
- \$8000 for every older child adoption over the older child adoption baseline; and
- \$4000 for every special needs adoption (that is not an older child adoption) over the special needs adoption baseline

In the event that the total amount of incentive payments earned by States exceeds the amount of funds appropriated for this purpose, payments to States will be prorated accordingly.

Incentive Awards for Exceeding the Highest Ever Foster Child Adoption Rate

An award for States that exceed the highest ever foster child adoption rate is a new category included in section 473A(d)(3). Payments to States for exceeding their highest ever foster child adoption rate will be paid if funds remain after making full payment to those States that earn incentives in other categories.

The following is the information needed to determine the highest ever foster child adoption rate:

- Current earning year foster child adoptions;
- highest ever foster child adoption rate between FY 2002 and the immediately preceding fiscal year; and
- foster child population on the last day of the preceding fiscal year

In addition to the AFCARS adoption data elements mentioned in the previous section, the following AFCARS foster care data elements are required to determine the numbers of children in care as of September 30th of a given fiscal year, used for calculating a State's adoption rate, are listed below.

- 01 State
- 02 Report period end date
- 04 Record number
- 21 Date of latest removal from home
- 56 Date of discharge from foster care

The incentive is calculated by comparing the current earning year's adoption rate to the highest ever foster child adoption rate. If the current earning year's rate is higher, then the highest ever adoption rate (expressed as a percentage) is multiplied by the number of children in foster care on the last day of the preceding fiscal year. The result is then subtracted from the number of foster child adoptions in the State in the current earning year. The difference is then rounded to the nearest whole number and multiplied by \$1,000. The following is an example of how the incentive would be calculated for a given State that exceeded the highest ever adoption rate.

Example Calculation

State Information:

- 9% highest ever adoption rate (2005)
- 1,500 children in care at the end of the previous fiscal year (2007)
- 150 actual foster child adoptions in the current fiscal year (2008)

Given the above information, the highest ever adoption rate (9%) would be multiplied by the number of children in care on the last day of FY 2007 (1,500). The result of that calculation is 135. The result (135) would then be subtracted from the actual number of foster child adoptions achieved by the State during FY 2008 (150). The difference between 150 and 135, which is 15, would then be multiplied by \$1,000 to determine the award amount (\$15,000). The \$15,000 would only be awarded to the State in the event that there were funds remaining after incentive awards for the other three categories (foster child, older child and special needs adoptions) had all been paid to States. The \$15,000 would also be subject to proration if funds were not available to pay all such awards.

In addition to earning the increased incentive amount, the State also would have a new highest ever foster child adoption rate. Because in this scenario the State finalized 150 adoptions in FY 2008, and on the last day of that year there were 1,500 children in foster care, the foster child adoption rate would be 10%. This is higher than the 9% that had been established in 2005.

Reporting and Expenditure Requirements

Under Sec 473A(e) of the Act, as amended by P.L. 110-351, each State that receives an incentive award now has a "24-month period beginning with the month in which the payments are made"

to the State to obligate its adoption incentive payment. (This differs from previous years when the funds had to be obligated by the end of the following fiscal year.) Under existing regulations at 45 CFR 92.23(b), each State has an additional 90-day period following the obligation deadline to complete the liquidation of these awards.

State expenditure of awarded adoption incentive payments is limited to the cost for services (including post-adoption services) and activities allowable under title IV-B and title IV-E of the Act. Incentive funds expended by the State may not be used as State or local matching funds for Federal financial participation.

As a part of its *Child and Family Services Plan* (CFSP) and subsequent *Annual Progress and Services Reports* (APSR) the State must describe the services provided to children and families as a result of utilizing the adoption awards. If, within a fiscal year, funds were used from more than one (1) fiscal year's award, the applicable CFSP or APSR must specify the services provided with each year's funds.

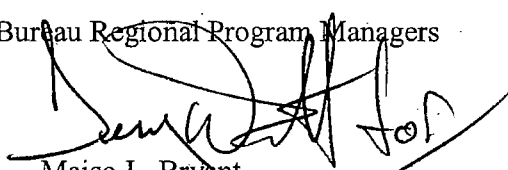
Actual disbursements of adoption incentive payments by States must be reported on Standard Form (SF)-269, Financial Status Report and submitted to:

Division of Formula, Entitlement and Block Grants
Administration for Children and Families
370 L'Enfant Promenade S.W., 6th Floor
Washington, D.C. 20447

A copy of the SF-269 also must be sent to the appropriate ACF Regional Office. The first report is due 30 days after the end of the twelve-month budget period. The final report is due 90 days after the end of the fiscal year following the award year (December 29).

INQUIRIES TO:

Children's Bureau Regional Program Managers



Maiso L. Bryant
Acting Commissioner

Attachments: Children's Bureau Regional Program Managers
FY 2007 State Baselines
Highest Ever Adoption Rate by State

Children's Bureau Regional Program Managers

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(303) 844-3100(p)
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Dakota, South Dakota, Utah, Wyoming

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Sally Flanzer

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(415) 437-8400 (p)

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Guam, Marshall Islands, Palau

Region X - Seattle

John Henderson

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2201 Sixth Avenue Suite 300, MS-70

Seattle, WA 98121

(206) 615-2482

States: Alaska, Idaho, Oregon,
Washington

ADOPTION INCENTIVE BASELINES				
State	Foster Child Adoptions FY 2007	Special Needs Adoptions (Under Age 9) FY 2007	Older Child Adoptions (Age 9 And Older) FY 2007	Adoption Rate (AR) Baseline Earning Year 2008 Begins With Highest AR 02-07
Alabama	349	110	115	6.5
Alaska	244	127	72	12.3
Arizona	1,565	1,026	345	16.0
Arkansas	401	181	102	12.5
California	7,622	4,921	1,646	10.0
Colorado	1,077	356	236	13.2
Connecticut	569	310	140	8.9
Delaware	118	19	24	13.0
Dist of Columbia	151	52	63	12.2
Florida	2,970	1,181	703	10.4
Georgia	1,237	459	356	9.4
Hawaii	242	170	48	14.7
Idaho	190	106	56	11.7
Illinois	1,512	0	336	12.9
Indiana	1,278	708	383	11.2
Iowa	1,060	399	240	21.0
Kansas	777	396	205	12.5
Kentucky	689	464	209	12.5
Louisiana	419	210	96	10.6
Maine	329	137	113	15.8
Maryland	197	23	43	7.3
Massachusetts	794	320	189	7.2
Michigan	2,617	1,027	828	13.6
Minnesota	548	231	153	10.1
Mississippi	290	149	95	9.9
Missouri	896	521	286	11.1
Montana	245	142	70	12.8
Nebraska	483	114	141	7.8
Nevada	453	288	122	9.8
New Hampshire	141	87	43	12.3
New Jersey	1,561	885	375	14.5
New Mexico	355	207	118	15.7
New York	2,488	969	1,053	10.8
North Carolina	1,521	757	376	13.7
North Dakota	125	60	27	10.7
Ohio	1,710	1,135	541	11.2
Oklahoma	1,227	609	343	12.9
Oregon	1,016	615	234	12.4
Pennsylvania	1,916	1,099	538	9.3
Rhode Island	239	118	57	11.0
South Carolina	431	163	113	9.0
South Dakota	160	75	51	10.4
Tennessee	1,214	196	524	14.1
Texas	4,022	2,214	805	13.0
Utah	450	149	80	21.6
Vermont	195	85	67	15.0
Virginia	668	327	215	8.7
Washington	1,276	975	246	13.6
West Virginia	398	244	105	10.9
Wisconsin	656	422	219	14.3
Wyoming	72	31	12	6.1
Puerto Rico	143	36	34	2.7

NOTE: AR is a current year's (year as shown) number of foster child adoptions divided by the number of children/youth in foster care as of the last day (September 30th) of the preceding FY.
 Source: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 Administration for Children and Families
 Administration on Children, Youth and Families
 Children's Bureau
 Adoption and Foster Care Analysis and Reporting System (AFCARS)
 Adoption and Foster Care Annual Files (Unduplicated Counts)
 Data as of May 2009

ATTACHMENT B - Highest Ever Adoption Rate by State

Highest Adoption Rate (AR) And The Year In Which It Was Achieved During The Years 2002 Through 2007					
STATE		Year Highest AR Achieved	Highest AR '02 to '07	Foster Child Adoptions	Number Of Children\Youth In Foster Care On September 30th - Prior Year
	Alabama	2004	6.5	396	6,079
	Alaska	2007	12.3	244	1,988
	Arizona	2007	16.0	1,565	9,767
	Arkansas	2003	12.5	370	2,971
	California	2007	10.0	7,622	76,405
	Colorado	2007	13.2	1,077	8,139
	Connecticut	2007	8.9	669	6,365
	Delaware	2002	13.0	133	1,023
	District of Columbia	2004	12.2	377	3,092
	Florida	2004	10.4	3,187	30,677
	Georgia	2007	9.4	1,237	13,175
	Hawaii	2005	14.7	431	2,939
	Idaho	2004	11.7	164	1,401
	Illinois	2002	12.9	3,633	28,202
	Indiana	2007	11.2	1,278	11,401
	Iowa	2003	21.0	1,102	5,238
	Kansas	2007	12.5	777	6,237
	Kentucky	2005	12.5	876	6,998
	Louisiana	2005	10.6	467	4,397
	Maine	2007	15.8	329	2,076
	Maryland	2002	7.3	918	12,564
	Massachusetts	2006	7.2	874	12,197
	Michigan	2005	13.6	2,883	21,173
	Minnesota	2005	10.1	661	6,540
	Mississippi	2004	9.9	270	2,721
	Missouri	2002	11.1	1,482	13,394
	Montana	2007	12.8	245	1,909
	Nebraska	2007	7.8	483	6,187
	Nevada	2002	9.8	289	2,959
	New Hampshire	2007	12.3	141	1,146
	New Jersey	2007	14.5	1,561	10,731
	New Mexico	2002	15.7	275	1,757
	New York	2004	10.8	4,006	37,067
	North Carolina	2007	13.7	1,521	11,115
	North Dakota	2006	10.7	147	1,370
	Ohio	2005	11.2	2,011	18,004
	Oklahoma	2003	12.9	1,136	8,812
	Oregon	2002	12.4	1,115	8,966
	Pennsylvania	2005	9.3	2,046	21,944
	Rhode Island	2003	11.0	262	2,383
	South Carolina	2005	9.0	415	4,635
	South Dakota	2002	10.4	142	1,367
	Tennessee	2007	14.1	1,214	8,618
	Texas	2007	13.0	4,022	30,848
	Utah	2006	21.6	493	2,285
	Vermont	2004	15.0	212	1,409
	Virginia	2007	8.7	668	7,672
	Washington	2005	13.6	1,273	9,368
	West Virginia	2002	10.9	361	3,298
	Wisconsin	2004	14.3	1,120	7,824
	Wyoming	2003	6.1	56	921
	Puerto Rico	2006	2.7	180	6,786

NOTE: Adoption rate is a current year's (year as shown) number of foster child adoptions divided by the number of children/youth in foster care as of the last day (September 30th) of the preceding FY.
 Source: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families Administration on Children, Youth and Families Children's Bureau Adoption and Foster Care Analysis and Reporting System (AFCARS) Adoption and Foster Care Annual Files (Unduplicated Counts) Data as of May 2009