



Child Welfare Information Gateway

PROTECTING CHILDREN ■ STRENGTHENING FAMILIES

STATE
STATUTES
SERIES

Current Through
June 2004

Federal Title IV-E and State Adoption Assistance: Summary of State Laws

Children with special needs who are adopted from foster care may qualify for adoption assistance, which is paid to adoptive families to help them defray expenses related to their child's need for ongoing therapies or treatments or to cover certain one-time expenses.¹ There are two major funding sources of adoption assistance or subsidies: the

¹ This publication presents a survey of how adoption assistance is addressed in State statutes. For a detailed description of the different types of assistance that may be offered by States, see the Information Gateway publication *Adoption Assistance for Children Adopted From Foster Care: A Factsheet for Families*, at www.childwelfare.gov/pubs/f_subsid.cfm.

Electronic copies of this publication may be downloaded at www.childwelfare.gov/systemwide/laws_policies/statutes/sneeds.cfm

To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/search/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/sneeds.pdf

U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



Child Welfare Information Gateway
Children's Bureau/ACYF
1250 Maryland Avenue, SW
Eighth Floor
Washington, DC 20024
703.385.7565 or 800.394.3366
Email: info@childwelfare.gov
www.childwelfare.gov

Federal Title IV-E program under the Social Security Act, and State programs, which vary from State to State.²

Adoption subsidy programs are typically categorized by the manner in which they are funded. Under the Federal Adoption Assistance Program, Federal Title IV-E matching funds are given to States that provide adoption assistance payments to parents who adopt children with special needs (as defined by the State). The children must be eligible for Aid to Families with Dependent Children (AFDC)³ or Supplemental Security Income (SSI). In addition, the program authorizes Federal matching funds for States that reimburse the nonrecurring adoption expenses⁴ of adoptive parents of children with special needs, regardless of AFDC or SSI eligibility.⁵

Not all children who receive adoption assistance from States are eligible for Federal Title IV-E funds. The non-Title IV-E children's adoption subsidies are paid solely by the State in which their adoption agreement was signed (without Federal reimbursement).^{6,7} Adoption subsidies take various forms in different States and depend on the child's needs and the State agency's program. Six States⁸ provide subsidies for children in State custody regardless of the residency of the adoptive parents. Families interested in adopting a child with special needs should contact their local department of social services to determine what assistance is available in their State.⁹

² Joan H. Hollinger et al., *Adoption Law and Practice* § 9.02 (2001).

³ Note: When the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) went into effect, it abolished the AFDC program; however, the AFDC definition of "dependent child" that was in effect on July 16, 1996, remains as an eligibility requirement for adoption assistance.

⁴ "Nonrecurring adoption expenses" are expenses related to finalizing the adoption, such as home study fees, attorney's fees, travel expenses, etc.

⁵ 42 USC § 673 (2002); Committee on Ways and Means, U.S. House of Representatives, *The 2000 Green Book* (2000); <http://aspe.hhs.gov/2000gb/>.

⁶ Hollinger, *supra*.

⁷ In Ohio, the State adoption special services subsidy program was discontinued as of July 1, 2004, except for payments on behalf of a child for whom payments were being made prior to July 1, 2004. Federal payments for adoption assistance under Title IV-E will continue to be made through the State Department of Job and Family Services.

⁸ Arkansas, Colorado, Michigan, Mississippi, Montana, and South Carolina.

⁹ Delaware does not currently provide for an adoption assistance program in statute. However, the State does provide in statute for recognition of adoption assistance agreements from other States as part of their Interstate Compact on Adoption and Medical Assistance agreement.

Eligibility for Adoption Assistance

The Federal definition under Title IV-E for a child with disabilities has three parts, as set forth under the Title IV-E program (42 USC § 673), whereby the State must determine that all three of the following conditions exist:

- The child cannot or should not be returned to the home of the parents.
- There exists, with respect to the child, a specific factor, such as ethnic background, age, or membership in a sibling group that would make placement difficult. (Federal law does not provide an exhaustive list of special needs conditions and thereby allows the States much discretion in determining the definition of a child with special needs.)
- Reasonable efforts have been made for unsubsidized placement except where a specific adoptive placement¹⁰ is in the child's best interests.

For ongoing adoption assistance with Title IV-E funding, children with special needs must be considered AFDC- or SSI-eligible. However, in order to receive Federal funds for non-recurring adoption expenses, children need not be AFDC- or SSI-eligible.¹¹

For State funding, children must be eligible for adoption assistance according to State standards. Funded programs other than Title IV-E generally follow the Federal definition above when defining a child with special needs.

Limitation on Adoption Assistance

Although subsidies are available for children with special needs, such subsidies are not unlimited. For example, Federal law does not allow the financial status of the adoptive parents to be a factor in determining the child's eligibility under Title IV-E. However, State agencies consider the parents' circumstances and the needs of the child when establishing the subsidy amount under the Federal program. Moreover, under Title IV-E,

¹⁰ Twelve States (Alabama, Arizona, Arkansas, California, Connecticut, Florida, Kentucky, Maryland, New Jersey, Oklahoma, South Carolina, and West Virginia) and the Virgin Islands provide for specific exceptions to the reasonable efforts requirement if the child has formed an attachment to the foster parent and it is determined that disrupting that attachment would be detrimental to the child.

¹¹ Committee on Ways and Means, U.S. House of Representatives, *The 2000 Green Book* (2000), available at <http://aspe.hhs.gov/2000gb/>.

adoption assistance may not exceed the amount that is allowable under foster family care¹² or the reasonable fees for services in cases where special services are required. For State-funded subsidies, some States have financial means tests¹³ that determine the amount a prospective adoptive family may receive under State funding.¹⁴

For both federally funded and State-funded subsidies, agreements must be negotiated before the adoption is finalized. However, adoptive families may request adoption assistance after the adoption is finalized, and such requests may be approved under specific conditions, such as those listed below, based on the funding source. For State-funded subsidies, some States permit funding for requests made after finalization, provided that State-specific criteria are met. Federal Title IV-E funds may be available for monthly subsidy only for those children who meet Title IV-E eligibility criteria prior to finalization. However, at any point after finalization, adoptive parents may request a fair hearing, and assistance may be approved if one of the following situations has occurred:

- The State agency failed to notify parents of the availability of assistance.
- Assistance was denied based on an erroneous determination that the child did not meet special needs criteria.
- Relevant facts, which may have affected the special needs determination, were known but not presented to the adoptive parents prior to finalization.¹⁵
- A condition existed but was not discovered prior to finalization.

Termination or Modification of Adoption Assistance

Under Title IV-E, adoption assistance payments may continue until the child is age 18, or, at State option, until the child is age 21 if the child has a physical or mental disability that warrants

¹² http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy_dsp.jsp?citID=81 .

¹³ Georgia, Kansas, Louisiana, Maine, Massachusetts, Minnesota, New Hampshire, and Washington currently require agencies to consider the parents' income when determining subsidy amounts.

¹⁴ Hollinger, *supra* at § 9.03.

¹⁵ http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy_dsp.jsp?citID=5.

continued assistance.¹⁶ Payments also terminate if the State determines that the parents are no longer legally responsible for the support of the child, or if the child is no longer receiving any support from such parents.¹⁷ For an exclusively State-funded subsidy, each individual State determines when such a subsidy shall terminate.

Payments may be readjusted according to the changing needs of the child and the adoptive family.¹⁸ In addition, some States provide separate subsidies or grants for special services,¹⁹ such as extraordinary medical treatment or other services needed by the child that regular assistance payments or programs like Medicaid do not cover.

Moreover, Federal law requires that States provide any individual whose claim for benefits is denied an opportunity to appeal and to receive a fair hearing before the appropriate State agency.²⁰

States determine how frequently the parents must be reevaluated for continued subsidy for funding channeled through both Federal and State sources. Most States evaluate adoptive parents annually to determine whether the need for continued assistance exists; however, some States evaluate such parents more or less frequently than once a year.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

¹⁶ 42 USC § 673 (2002).

¹⁷ http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy_dsp.jsp?citID=82.

¹⁸ 42 U.S.C. 673; See, e.g., Va. Code Ann. § 63.2-1302.

¹⁹ Connecticut, Louisiana, Michigan, and Washington provide separate subsidy payments for medical treatments or hospitalization. Illinois, Maryland, and New Hampshire offer special purpose grants for extraordinary expenses that maintenance subsidies are unable to cover.

²⁰ 42 U.S.C. § 671(a)(12).

Alabama**Children Eligible for Subsidy****Statute: § 26-10-22**

A child who is in the custody of a licensed agency, free for adoption, and is not likely to be adopted because of:

- A physical and/or mental disability
- An emotional disturbance
- High risk of disease
- Age
- Sibling relationship
- Racial or ethnic factors
- Possible danger to child in severance of his emotional ties with prospective adoptive parents
- Any combination of the above

Limitation on Subsidy**Statute: § 26-10-25**

- There must be a written agreement between the State and adopting family as to terms and conditions of subsidy.
- The subsidy will vary with the needs of the child and according to availability of other resources to meet the child's needs.
- The subsidy may not exceed that which would be allowable if the child were in foster care.

Termination or Modification of Subsidy**Statute: § 26-10-26**

- The subsidy shall continue as long as the child is the legal dependent of adoptive parents and the child's condition continues.
- In the absence of other resources provided by law, the subsidy may continue after the child reaches majority so long as the child is in school or in a training program.
- If the child is in custody of a voluntary agency, upon request, the agency must furnish information that the child's condition still exists.
- The subsidy may be modified with approval of the State Department of Human Resources.
- The adoptive parents may request termination of the subsidy at any time.

Certification for Subsidy**Statute: § 26-10-24**

- If foster parents are the prospective adoptive parents, subsidy eligibility is conditioned on the child's adoption under applicable adoption laws.
- The State Department of Human Resources must certify that the child is eligible for subsidy if no appropriate family is found without the use of a subsidy.
- If the child is in custody of a voluntary agency, evidence of the child's eligibility must be presented.

Alaska**Children Eligible for Subsidy****Statute: § 25.23.240**

A hard to place child defined as a minor who is not likely to be placed because of:

- Physical/mental disability
- Emotional disturbance
- High risk of physical/mental disease
- Age
- Sibling relationship
- Racial or ethnic factors
- Any combination of the above

Limitation on Subsidy**Statute: § 25.23.210**

Payment amount is left to the discretion of the commissioner, not to exceed the existing rate of foster care until the child reaches the age of majority.

Termination or Modification of Subsidy**Statute: § 25.23.210**

- Length of time for the subsidy is left to the discretion of the commissioner.
- The subsidy may continue until the child reaches the age of majority if the need continues to exist.

Certification for Subsidy**Statute: § 25.23.200**

Prospective adoptive parents, immediately serving as foster parents, must apply and be evaluated as to their suitability for adoption.

American Samoa**Children Eligible for Subsidy**

Not addressed in statutes reviewed

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Arizona**Children Eligible for Subsidy****Statute: § 8-141**

A child with 'special needs,' which means that one or more of the following conditions existed prior to finalization:

- Physical, mental, or developmental disability
- Emotional disturbance
- High risk of physical or mental disease
- High risk of developmental disability
- Age 6 or older at the time of application
- Sibling relationship
- High risk of severe emotional disturbance if removed from care of foster parents
- Racial or ethnic factors
- Any combination of the above

Limitation on Subsidy**Statute: §§ 8-142; 8-144**

- Department may not pay for a special services subsidy submitted more than 9 months after the date of the service except as authorized by department rules.
- The subsidy will not be considered until the applicant has applied for all Federal eligibility categories under the Title IV-E program.
- A subsidy agreement must be signed prior to finalization.
- The subsidy will vary according to child's needs and other available resources.

Termination or Modification of Subsidy**Statute: § 8-144**

- The subsidy may continue through age 21 if the individual is enrolled in and regularly attending school, unless the person has received a high school diploma or its equivalent.
- An application may be made and granted at any time for a new or increased subsidy upon documentation of an undiagnosed condition that existed prior to finalization.

Certification for Subsidy**Statute: § 8-143; 8-144**

- All persons approved as adoptive parents shall meet agency standards for financial ability except for the ability to support the special needs of the child.
- A review, at least annually, shall take place to determine the appropriateness of all subsidies and to ascertain the need for continuing or adjusting the subsidy.

Arkansas**Children Eligible for Subsidy****Statute: § 9-9-402**

A minor, defined by statute, who:

- Is in the custody of the Department of Human Services
- Is legally free for adoption
- Has been determined to have special needs, which is defined as a child with significant emotional ties with prospective adoptive parents while in their care as a foster child, or a child unlikely to be adopted because of one or more of the following conditions:
 - » A physical and/or mental disability
 - » An emotional disturbance
 - » A high risk of physical or mental disability
 - » Age
 - » Sibling relationship
 - » Racial or ethnic factors
 - » Any combination of the above

Limitation on Subsidy**Statute: §§ 9-9-407; 9-9-408; 9-9-409**

- Reasonable attempts must be made for unsubsidized placement, unless the child has developed ties with prospective adoptive parents while in their care as a foster child.
- There must be a written agreement between the adoptive parents and the Department of Human Services.
- Payment amount shall be determined by agreement and may vary according to child's needs and other available resources.
- Amount may not exceed amount for foster care or reasonable fee for services.

Termination or Modification of Subsidy**Statute: §§ 9-9-408 through 9-9-411**

- Subsidy may be approved if child is determined to have a preexisting condition that requires extensive treatment and was not identified prior to finalization.
- The family is entitled to retroactive payments for 2 months prior to approval of this subsidy.
- Amount may be readjusted periodically if there is a change of circumstances.
- Subsidy agreement shall continue until the child reaches age 18, or the adoptive parents no longer qualify for a subsidy, or the benefits are provided through other State or Federal programs.
- Subsidy may be extended to age 21 if the child has a documented disability that prevents him from living independently of the adoptive family.
- The adoptive parents may request termination or modification of the subsidy at any time.

Certification for Subsidy**Statute: §§ 9-9-404; 9-9-407; 9-9-409(b); 9-9-411**

- Persons must be determined eligible to adopt by the department, and the adoptee must be a child as defined in § 9-9-402.
- If no adoptive family can be found for the child without a subsidy, the Department of Human Services may certify the child as eligible for subsidized adoption.
- The services will be reviewed periodically.
- A child who is a resident of the State at the time of certification will remain eligible even if the adoptive parents are nonresidents.
- When subsidies continue for more than 1 year, the adoptive parents shall present an annual sworn certification that the child's condition continues to exist and that the child is still a legal dependent of the adoptive parents.

California**Children Eligible for Subsidy****Statute: Welf & Inst § 16120**

A child is eligible for assistance if placement is unlikely because of:

- A sibling relationship, ethnicity, color, language, the child is 3 years or older, or the child has potential developmental problems
- Mental, physical, medical, or emotional disabilities
- Emotional ties with adoptive parents because of a foster care relationship
- Other reasons specified in § 16120(e)

Limitation on Subsidy**Statute: Welf & Inst §§ 16118; 16119(d)(1); 16120.05**

- The department shall determine amount of subsidy.
- The subsidy agreement shall specify the amount and length of assistance.
- Federal and private funding shall be used to offset costs.
- Amount of the adoption assistance cash benefit, if any, shall be negotiated based on the needs of the child and the circumstances of the family.

Termination or Modification of Subsidy**Statute: Welf & Inst §§ 16199(f); 16123**

- Adoptive parents will continue to receive benefits in the agreed amount, unless there is a change in family circumstances.
- Subsidy may continue until a child reaches age 18 or until age 21 if the child has mental or physical disabilities.
- Funding will continue as long as Federal funds are available under Title IV-E.

Certification for Subsidy**Statute: Welf & Inst §§ 16118(c); 16119; 16120.05**

- The department or county shall determine and certify the child's eligibility for subsidy.
- The date for reassessment of the child's needs shall be set at the initial negotiation of the assistance agreement and shall thereafter be set at each subsequent reassessment.
- The interval between any reassessments may not exceed 2 years.

Colorado

Children Eligible for Subsidy

Statute: § 26-7-103

- The child is in the custody of a department or a licensed nonprofit agency and legally free for adoption.
- Reasonable efforts have been made for unsubsidized placement.
- The child is one with special needs.
- The adoptive family is deemed capable of providing nonfinancial support.
- The department or licensed nonprofit agency is financially responsible for the care of the child.
- Children in the custody of licensed agency must meet requirements under Title IV-E of the Federal Social Security Act.

Limitation on Subsidy

Statute: § 26-7-104

The amount of subsidy payments shall be subject to available appropriations and may not exceed the cost of providing comparable assistance in foster care.

Termination or Modification of Subsidy

Statute: § 26-7-104

- Payments in subsidization of adoption shall terminate when the need for payments no longer exists.
- Payments shall not continue past the child's 21st birthday.

Certification for Subsidy

Statute: §§ 26-7-103; 26-7-104

- If all conditions set forth in § 26-7-103 are met, the child is deemed eligible for adoption assistance.
- Subsidy is not contingent on continued residency in the State.

Connecticut

Children Eligible for Subsidy

Statute: §§ 17a-117; 17a-116; 17a-120

- A child who is free for adoption
- A child who cannot, after reasonable efforts, be placed through existing sources because the child has special needs. A special needs child has one or more of the following:
 - » Physical or mental disability
 - » Emotional maladjustment
 - » Risk of disability
 - » Age, racial, or ethnic factors
 - » Member of a sibling group
 - » Significant emotional attachment to a foster parent
- A child shall be eligible for a 100 percent medical expenses subsidy, subject to provisions stipulated in § 17a-120, if the child is:
 - » Blind or physically disabled, as defined by statute
 - » Mentally disabled, emotionally disturbed, or has a high risk of disability as defined by regulations

Limitation on Subsidy**Statute: § 17a-117**

- The Commissioner and the adopting parents shall agree to the amount and duration of the subsidy before entry of the adoption decree.
- The amount of a periodic subsidy shall not exceed the current costs of foster maintenance care.
- Subsidy requests after finalization may be considered at the discretion of the Commissioner of Children and Families for conditions resulting from or related to the circumstances surrounding placement.

Termination or Modification of Subsidy**Statute: § 17a-117**

- A medical subsidy as defined per this statute may continue until the child reaches age 21.
- A special needs subsidy and periodic subsidy as defined per this statute may continue until the child reaches age 18.

Certification for Subsidy**Statute: §§ 17a-117; 17a-118; 17a-120**

- The Commission of Children and Families shall certify that the child has special needs.
- The adopting family must meet the standards for adoption eligibility that any other adopting family must meet.
- The Commissioner of Children and Families shall conduct a biennial review of the subsidy, however, an annual review of a medical expense subsidy shall be conducted.
- Adoptive parents must submit an affidavit that conditions necessary for the subsidy still exist.

Delaware**Children Eligible for Subsidy****Statute: Title 31, § 5405**

Delaware does not currently provide for an adoption assistance program in statute. However, the State does provide in statute for recognition of adoption assistance agreements from other States as part of their interstate compact for adoption assistance agreement.

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

District of Columbia**Children Eligible for Subsidy****Statute: § 4-301**

- The mayor may make subsidy payments, on behalf of a child with special needs, as defined by statute.
- Child with special needs includes any child who is difficult to place due to:
 - » Age, race, or ethnic background
 - » Physical or mental condition
 - » Membership in a sibling group
 - » Not being placed within 6 months of becoming legally available for placement

Limitation on Subsidy**Statute: § 4-301**

Amount and duration of payments may vary according to the needs of the child and circumstances of the family.

Termination or Modification of Subsidy**Statute: § 4-301**

- Eligibility for payments shall continue until the child reaches age 18.
- Appropriate adjustments shall be made based on changes in the child's needs.

Certification for Subsidy**Statute: § 4-301**

- The mayor must conclude that the child referred has special needs and that an appropriate adoptive home exists for the child.
- The mayor shall annually review the need for continuing subsidy.

Florida**Children Eligible for Subsidy****Statute: § 409.166**

A child who is in custody of the department and a licensed child-placing agency and meets at least one of the following requirements:

- Has significant emotional ties with his or her foster parents
- Is not likely to be adopted because he or she:
 - » Is 8 years of age or older
 - » Is mentally retarded
 - » Has physical or emotional handicaps
 - » Is Black or of racially mixed parentage
 - » Is a member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption

Limitation on Subsidy**Statute: § 409.166**

- Amount is to be determined through agreement between the adoptive parents and the department.
- Agreement shall consider the circumstances of the adopting parents and the needs of the child.

Termination or Modification of Subsidy**Statute: § 409.166**

- Amount of subsidy may be readjusted periodically based upon changes in the circumstances of the adoptive parents and the needs of the child.
- Eligibility for payments shall continue until the child reaches age 18.

Certification for Subsidy**Statute: § 409.166**

- Subsidy shall be negotiated yearly between the parents and the department.
- The adoptive parents shall file a sworn statement with the department at least once a year to include any social or financial conditions that may have changed.

Georgia**Children Eligible for Subsidy****Statute: § 49-5-8(a)(7)(F)**

Subsidy may be granted for hard-to-place children with physical, mental, or emotional disabilities or with other problems for whom it is difficult to find a permanent home.

Limitation on Subsidy**Statute: § 49-5-8(a)(7)(F)**

- Subsidy may not exceed 100 percent of the amount paid for boarding the child and for special services not available through insurance or public facilities.
- Subsidies shall only be available to families who could not care for the child without continued financial assistance.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy**Statute: § 49-5-8(a)(7)(F)**

The department may review the supplements paid at any time but shall review them at least annually to determine the need for continued assistance.

Guam**Children Eligible for Subsidy**

Not addressed in statutes reviewed

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Hawaii**Children Eligible for Subsidy**

Statute: §§ 350C-2; 346-1

- The child is legally free for adoption and cannot or should not be returned to the parent's home.
- There exists a specific factor such as ethnic background, age, membership in a minority or sibling group, or handicap that makes it likely that the child could not be placed with adoptive parents without assistance.
- A reasonable but unsuccessful effort has been made to place the child without a subsidy.

Limitation on Subsidy

Statute: § 346-303; 350C-2

- The Department of Human Services shall maintain rules describing amounts of adoption assistance benefits that may be received.
- Reasonable efforts must be made to place the child without assistance; however, no attempt need be made when it would be against the best interests of the child.

Termination or Modification of Subsidy

Statute: § 346-303

The Department of Human Services shall maintain rules describing the duration and type of adoption assistance benefits.

Certification for Subsidy

Statute: 350C-2

The department must determine that the child to be adopted is a child with special needs as defined per this statute.

Idaho**Children Eligible for Subsidy**

Statute: § 56-802

A child who is difficult to place for adoption or guardianship because of ethnic background, race, color, age, sibling grouping, or physical or emotional handicap

Limitation on Subsidy**Statute: § 56-805**

- Assistance shall not be more than the amount that would be paid for foster or institutional care for the child if the placement had not occurred.
- Amount shall be determined on a case-by-case basis by the department as set forth in rules promulgated by the State Board of Health and Welfare.

Termination or Modification of Subsidy**Statute: § 56-805**

Assistance may be provided until the child is 18 years of age, parents are no longer legally responsible for the child, or until the parents are no longer providing support for the child.

Certification for Subsidy**Statute: § 56-805**

- Applicants who have applied to adopt a hard to place child shall be evaluated as to their suitability as adoptive parents.
- The department shall make an annual evaluation to determine if there is a need for continued subsidy and the amount of the subsidy.

Illinois**Children Eligible for Subsidy****Statute: Ch. 20 § 505/5(j)**

A child who is:

- Physically or mentally handicapped
- Older
- Otherwise hard to place
- A ward of the department immediately prior to adoption
- Eligible for assistance in a prior adoption and the adoption dissolved or the adoptive parents died

Limitation on Subsidy**Statute: Ch. 20 § 505/5(j)**

- Amount of assistance may vary depending on the needs of the child as set forth in an annual assistance agreement.
- Special purpose grants are allowed when the child requires special service, but such costs may not exceed amount that services would cost the department.
- Financial assistance under this subsection is inalienable, that is, it may not be used to pay the debts of the adoptive parents.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy**Statute: Ch. 20 § 505/5(j)**

The department shall establish rules and regulations for the assistance and grants.

Indiana**Children Eligible for Subsidy****Statute: § 31-19-26-3**

A child with a physical, mental, emotional, or medical condition

Limitation on Subsidy**Statute: §§ 31-19-26-2,3**

- The condition or cause of the condition must have existed prior to filing of the adoption petition.
- Payments from insurance or public monies must not be available to treat the condition.
- Subsidy must not exceed the allowable amount under foster care.

Termination or Modification of Subsidy**Statute: § 31-19-26-4**

- Subsidy shall continue until the child is age 18, becomes emancipated, dies, the adoption is terminated, or as ordered by the court.
- Subsidy may continue until the child is age 21 if the child files a petition and the child is enrolled in a secondary school, college, or vocational training.

Certification for Subsidy**Statute: § 31-19-26-5**

- Adoptive parents must file an affidavit with the court at least once a year stating:
 - » The location of the parents
 - » The location and condition of the child
- Adjustments will be made based on the report.

Iowa**Children Eligible for Subsidy****Statute: §§ 600.17; 600.20**

A child with physical or mental disabilities or an older or otherwise hard-to-place child who is under the custody of the State, county, or licensed child-placing agency immediately prior to adoption

Limitation on Subsidy**Statute: §§ 600.17; 600.18; 600.19**

- Assistance shall not be provided when the services are free or are covered by insurance.
- If the department is unable to determine that an insurance policy will cover the services, it shall proceed as if no policy existed to determine eligibility for assistance.
- Subsidy shall not exceed the amount allowable under foster care or the amount the department would normally spend for these services.

Termination or Modification of Subsidy**Statute: § 600.21**

- Subsidy shall terminate when the need for assistance no longer exists.
- Subsidy shall not extend beyond the child's 21st birthday.

Certification for Subsidy**Statute: §§ 600.18; 600.17**

- Any prospective adoptive parent desiring financial assistance shall state this fact in the adoption petition.
 - The Department of Human Services shall investigate the person petitioning for adoption and the child and shall file a statement of whether the Department will provide assistance.
 - The adoptive parent must have the capability of providing a suitable home for the child.
-

Kansas**Children Eligible for Subsidy****Statute: § 38-322**

- The child shall be or have been a child hard to place in adoption due to attitudes of society toward his/her:
 - » Age
 - » Racial or ethnic background
 - » Mental, emotional, or physical handicap
 - » Membership in a sibling group
- The child shall have resided in a foster home or child-care institution or, in the judgment of the secretary, is both eligible for and likely to be placed in a foster home or institution.

Limitation on Subsidy**Statute: §§ 38-324; 38-326**

- Some factors considered in determining amount are size of family, usual living expenses, special needs of other family members, and family income.
- The subsidy shall not exceed the usual cost to the department for the cost of care in a foster home, including medical services and other special grants, as determined by the secretary.

Termination or Modification of Subsidy**Statute: §§ 38-323; 38-324**

- Adoption support under this act shall not continue:
 - » After the child is age 18, unless the adoptee is participating in an educational or training program, in which case support shall continue until the adoptee is age 21 or until the adoptee ceases participation in an educational or training program
 - » Beyond the time that the adoptee becomes emancipated, dies, or otherwise ceases to need support
- Whenever it appears to the secretary that the adoptive parents are no longer in need of adoption support, such support shall be terminated.

Certification for Subsidy**Statute: § 38-324**

A prospective adoptive parent shall be suitable as an adoptive parent under the provisions of § 59-2101 et seq., and must lack the financial means to care for the child.

Kentucky

Children Eligible for Subsidy

Statute: § 199.555

A special needs child is defined as:

- A child that the State has determined cannot or should not be returned to the home of the child's parents
- A child with a specific factor or condition that leads to the conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX
- A child with significant emotional ties with potential adoptive parents, and reasonable, but unsuccessful, efforts have been taken to place the child without a subsidy

Limitation on Subsidy

Statute: § 199.555

- Subsidy shall not exceed the amount that would be paid for foster care for the child.
- Payment of nonrecurring adoption expenses shall be reimbursed up to the limit established by the secretary.
- Payments for extraordinary medical expenses shall be limited to problems or conditions that existed prior to the adoption.

Termination or Modification of Subsidy

Statute: § 199.555

Payments shall not be made to parents if:

- The child has attained the age of 18, except that if the child is enrolled in a State or Federal program, the payments may continue through age 21.
- The parents are no longer legally responsible for the support of the child.
- The child is no longer receiving any support from the parents.

Certification for Subsidy

Statute: § 199.555

Parents who have been receiving assistance under this section shall keep the cabinet informed of circumstances that would make them eligible for assistance or eligible for assistance in a different amount.

Louisiana

Children Eligible for Subsidy

Statute: La. R.S. § 46:1790

The child is considered to have special needs if the department has made reasonable but unsuccessful attempts for unsubsidized placement due to the child's:

- Physical or mental condition
- Race, age, or sibling relationship
- Other impediments or special needs

Limitation on Subsidy**Statute: La. R.S. §§ 46:1791; 46:447.3**

- Subsidy may vary, depending on the needs of the child and the adoptive parents.
- Subsidy shall not exceed 100 percent of the cost of providing foster care for the child.
- Agreements executed after September 1, 2001, involving a child in custody of the department, shall provide the child with in-hospital mental health services only if the child is not eligible for such services through Medicaid or other health benefit plan.

Termination or Modification of Subsidy**Statute: La. R.S. §§ 46:1791; 46:1794(B)**

- Payments to the adoptive parents shall be terminated when the child becomes 18.
- Changes in the child's condition or changes in the income of the adoptive parents, where the condition or income formed the basis for the subsidy, shall be cause for modifying the subsidy.

Certification for Subsidy**Statute: La. R.S. §§ 46:1790(B)(2); 46:1792**

- The adoptive family must be capable of providing the child with the nonfinancial relationship the child needs.
- Eligibility for payments shall be determined and approved by the department, in accordance with § 1793, prior to the adoption, and shall be redetermined annually thereafter.

Maine**Children Eligible for Subsidy****Statute: Title 18-A, § 9-401**

Special needs children in custody of the Department of Health and Human Services or a licensed agency and who are legally eligible for adoption are eligible for subsidy. A special needs child is defined as a child who is hard to place because of:

- A physical, mental, or emotional handicap; a sibling relationship; race or age
- Physical, emotional, or sexual abuse or neglect that places the child at high risk for emotional problems
- Family background factors such as severe mental illness, substance abuse, prostitution, or genetic or medical conditions or illnesses that place the child at risk for future problems

Limitation on Subsidy**Statute: Title 18-A, §§ 9-401; 9-402; 9-403**

- Subsidy may vary depending on the resources of the adoptive parents, availability of other resources, and the special needs of the child.
- Subsidy may not exceed the total cost of caring for the child if the child were to remain in the care or custody of the department.
- Reasonable efforts must be made for unsubsidized placement.
- A written agreement between the family entering into the program and the department must precede the final decree, except that the adoptive parents may apply for assistance post-finalization if facts about the child's condition were not previously made known to them.

Termination or Modification of Subsidy**Statute: Title 18-A, §§ 9-401; 9-403**

- Assistance may continue until the cessation of legal parental responsibility or until the parents are no longer supporting the child.
- If the child has need of educational benefits or has a physical, mental, or emotional handicap, adoption assistance may continue until the adoptee is age 21.
- Upon the death of both adoptive parents, assistance may be transferred to a legal guardian as long as the child is still eligible.

Certification for Subsidy**Statute: Title 18-A, § 9-403**

- If assistance continues for more than 1 year, the need for assistance must be annually re-determined.
- Eligibility is not affected by residency.

Maryland**Children Eligible for Subsidy****Statute: Family Law §§ 5-401; 5-403**

A child whose guardianship has been awarded to a child placement agency is eligible if a determination has been made by a local department per statute that a subsidy is necessary to assure the child's adoption because of special circumstances, which include:

- A physical or mental disability
- Emotional disturbance
- Recognized high risk of physical or mental disease
- Age
- Sibling relationship
- Racial or ethnic factors

Limitation on Subsidy**Statute: Family Law §§ 5-409; 5-410**

- A prospective adoptive parent must file an application.
- Reasonable efforts for unsubsidized placement must be made, unless the child has emotional ties with a prospective adoptive parent who is the child's foster parent.
- Subsidy shall not exceed the allowable amount for a child under foster care.
- In the case of a medically fragile child living in a treatment foster care home, the subsidy is not more than \$2,000 per month.
- If the subsidy is for a special service, the subsidy shall not exceed a reasonable fee for that service.
- The nature and amount of the subsidy shall be determined by the child's needs and the availability of other resources.

Termination or Modification of Subsidy**Statute: Family Law § 5-410**

The duration, nature, and amount of the subsidy shall be determined by the child's needs and the availability of other resources.

Certification for Subsidy**Statute: Family Law § 5-410**

The agreement is subject to annual reapplication, reevaluation, and reapproval by the department.

Massachusetts**Children Eligible for Subsidy****Statute: Ch. 18B § 21**

Children with special needs who are in substitute care and who would not otherwise be placed in an appropriate adoptive home or be adopted

Limitation on Subsidy**Statute: Ch. 18B § 21**

The department shall consider the circumstances of the adopting parents and the needs of the child being adopted and shall determine the amount to be paid to the adoptive parents.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Michigan**Children Eligible for Subsidy****Statute: § 400.115f**

A child with special needs, which is a child under age 18 who:

- Cannot or should not be returned to the home of his/her parents
- Is hard to place because of ethnic background; age; membership in a minority or sibling group; medical condition; physical, mental, or emotional disability; or length of time the child has been waiting for an adoptive home
- Was the subject of a reasonable but unsuccessful effort for unsubsidized placement or for whom subsidized placement is in the best interest of the child.

Limitation on Subsidy**Statute: §§ 400.115g; 400.115h; 400.115i**

- Subsidy amount shall not exceed the amount that would be paid in foster care, except that the amount shall be increased to reflect increases in the foster care rate made by the department.
 - The department may pay a medical subsidy subject to the qualifications set forth in this statute.
 - The department and adoptive parents must enter into an adoption agreement stating the duration and amount to be paid.
-

Termination or Modification of Subsidy**Statute: § 400.115j**

- A subsidy shall continue until one of the following occurs:
 - » The adoptee becomes age 18, is emancipated, or dies.
 - » The adoption is terminated.
 - » A determination of ineligibility is made by the department.
- The department may continue a subsidy for an adoptee under age 21 if the adoptee is a regularly attending student of an appropriate educational or vocational program.
- A subsidy shall continue even if the adoptive parents leave the State.

Certification for Subsidy**Statute: §§ 400.115i; 400.115g**

- The adoptive parents shall file a report with the department at least annually as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee.
- The department must certify that the adoptee is eligible for subsidy based on the provisions set forth in this statute.

Minnesota**Children Eligible for Subsidy****Statute: § 259.67**

A child who meets eligibility requirements under Title IV-E of the Social Security Act or who:

- Has been a ward of the commissioner, a Minnesota licensed agency, or a tribal social service agency
- Is a special needs child because he or she:
 - » Is a member of a sibling group to be placed together, and at least one sibling is older than 15 months and has a physical, mental, or behavioral disability
 - » Has documented physical, mental, or behavioral disabilities
 - » Has a high risk of developing disabilities

Limitation on Subsidy**Statute: § 259.67**

- Commissioner and adoptive parent must enter into a written agreement stating the responsibilities of each party, the duration, and payment terms.
- Amount is subject to availability of State and Federal funds and shall consider the circumstances of the adopting parents and the needs of the child.
- Subsidy shall not exceed the amount that would be allowable for the child under foster family care.
- Reasonable efforts must be made for unsubsidized placement, or placement must be in the child's best interests.

Termination or Modification of Subsidy**Statute: § 259.67**

- Agreement shall continue as long as the need continues and the adoptee is the dependent of the adoptive parent and is under age 18.
- Assistance may continue to age 22 as allowed by rules adopted by the commissioner.
- When the commissioner determines the child is eligible for assistance under Title IV-E, he or she shall modify the agreement in order to obtain funds under that act.
- The adoptive parents may request termination or modification at any time.

Certification for Subsidy**Statute: § 259.67**

- The placing agency shall certify a child as eligible for assistance according to rules adopted by the commissioner.
- The commissioner may require periodic reevaluation of payments.
- Adoptive parents shall annually present an affidavit stating whether the child is still under their care and whether the need for assistance still exists.

Mississippi**Children Eligible for Subsidy****Statute: § 93-17-55**

A child who is:

- A dependent of a public or voluntary placing agency
- Legally free for adoption
- In special circumstances due to significant ties with prospective adoptive parents resulting from a foster relationship
- Not likely to be adopted because of a severe mental or physical disability, severe emotional disturbance, recognized high risk of physical or mental disease, or any combination of the above

Limitation on Subsidy**Statute: §§ 93-17-61; 93-17-59**

- Adoptive parents and the State Department of Public Welfare must execute a subsidy agreement that will vary with the child's needs and other available resources.
- Subsidy shall not exceed that which would be allowable under the State Medicaid Law (Title 43, Ch. 13, Article 3).
- Reasonable efforts must be made for unsubsidized placement.

Termination or Modification of Subsidy**Statute: § 93-17-61**

- Assistance shall be extended so long as the continuing need of the child is certified and the child is the legal dependent of the adoptive parents.
- Benefits shall continue regardless of residence.

Certification for Subsidy**Statute: § 93-17-61**

When benefits last for more than 1 year, the adoptive parents shall present an annual written certification that the child remains under the parent's care and that the child's need for benefits continues.

Missouri**Children Eligible for Subsidy****Statute: §§ 453.073; 453.065**

A child, under the age of 18, who is in the custody of the Division of Family Services, who:

- Is in need of medical, dental, educational, or other services
- Belongs to a racial or ethnic minority
- Is 5 years of age or older
- Is a member of a sibling group
- Does not have an adoptive home readily available

Limitation on Subsidy**Statute: § 453.073**

- Determination is made in reference to the child's needs and shall not exceed the cost of foster care and medical care for foster children under the foster care program.
- A written agreement shall be entered into by the division and the family and shall set forth the terms and conditions of the subsidy.

Termination or Modification of Subsidy**Statute: § 453.065**

- Assistance is available for eligible children under age 18.
- If the physical, dental, or mental condition of the child requires care after age 18, payment may be continued with the approval of the Division of Family Services.

Certification for Subsidy**Statute: §§ 453.065; 453.073**

- If assistance is extended beyond age 18, such assistance is subject to annual review.
 - Determination is made at the time of placement, if practicable.
-

Montana

Children Eligible for Subsidy

Statute: § 42-10-103

A child who is a dependent of a public or voluntary placement agency who meets at least one of the following criteria as a child who is:

- Diagnosed as having, or at high risk of developing, a physical, mental, or emotional disability
- A member of a minority group
- Age 6 or older
- A member of a sibling group to be placed together

Limitation on Subsidy

Statute: §§ 42-10-108; 42-10-109; 42-10-106

- There must be an agreement between the family and the department.
- Subsidy may vary with the needs of the child as well as the availability of other resources.
- Subsidy may not exceed the allowable amount under foster care and in the case of medical subsidy, the reasonable fee for services may not exceed \$2,600 annually.
- Reasonable efforts must be made for unsubsidized placement.

Termination or Modification of Subsidy

Statute: § 42-10-108

- The agreement must continue in accordance with its terms until the child reaches majority or, in the case of a child with mental or physical handicap, until 21 years of age.
- The adoptive parents may request modification or termination at any time.

Certification for Subsidy

Statute: §§ 42-10-106; 42-10-107

- The child shall be certified as a child with special needs when the conditions of § 42-10-103 have been met and reasonable efforts have been made to place the child without subsidy payments.
- Any family that is approved by the department or a licensed placement agency as a suitable adoptive family is eligible for a subsidy regardless of the residence of the family.

Nebraska

Children Eligible for Subsidy

Statute: §§ 43-117; 43-118

- An eligible child is a ward of the Department or Health and Human Services or placement agency who has special needs.
- The child so adopted shall have been a child for whom adoption would not have been possible without assistance.

Limitation on Subsidy

Statute: § 43-118

The Director of Health and Human Services shall adopt and promulgate rules and regulations for the administration of §§ 43-117 and 43-118.

Termination or Modification of Subsidy**Statute: §§ 43-117; 43-117.01**

- Assistance shall terminate on or before the child's 20th birthday if the child was a ward of the department prior to his adoption.
- Assistance shall terminate on or before the child's 19th birthday if the child was a ward of a placement agency prior to his adoption.

Certification for Subsidy**Statute: § 43-117**

The Department of Health and Human Services shall conduct a medical assessment of the mental and physical needs of any child to be adopted through the department.

Nevada**Children Eligible for Subsidy****Statute: § 127.186**

A child under age 18 who is in the custody of the agency that provides child welfare services or the licensed agency and has special needs due to:

- Race
- Age
- Physical or mental problems

Limitation on Subsidy**Statute: § 127.186**

- Amount and duration of assistance must be limited by agreement in writing between the agency and the adoptive parents.
- The agreement must not become effective before the entry of the adoption order.
- The court will also waive all court costs to the adoptive parents adopting a child with special needs.

Termination or Modification of Subsidy**Statute: § 127.186**

Assistance ceases when the child attains majority, becomes self-supporting, is emancipated, or dies, whichever occurs first.

Certification for Subsidy**Statute: § 127.186**

Any grant of assistance must be reviewed and evaluated at least once annually.

New Hampshire

Children Eligible for Subsidy

Statute: §§ 170-F:2; 170-F:4

- A child found to be legally free but difficult to place for adoption because of, but not limited to, physical or mental disability, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping
- A hard-to-place child where the adoptive family has the capability of providing the child with nonfinancial support

Limitation on Subsidy

Statute: §§ 170-F:7; 170-F:8

- Amount and duration may vary according to the needs of the child.
- Subsidy may be made:
 - » On a long-term basis to help a family whose income is limited
 - » On a time limited basis to help a family meet the cost of integrating the child into the family
 - » On a special services basis to help meet a specific expense when no other resources are available
- The amount expended by the county for any subsidy shall not exceed the amount paid by the county before the child was adopted.

Termination or Modification of Subsidy

Statute: §§ 170-F:7; 170-F:9

- Eligibility for payments shall continue until the child reaches 18 years of age so long as the child is a dependent as defined in the Federal Internal Revenue Code.
- Appropriate adjustments in payment shall be made based on the needs of the child or the financial status of the parents.

Certification for Subsidy

Statute: § 170-F:9

Once during each calendar year the Commissioner or designee shall review the need for continuing each family's subsidy.

New Jersey

Children Eligible for Subsidy

Statute: § 30:4C-46

The child who, because of physical or mental condition, race, age, or membership in a sibling group, or for any other reason, falls into the category of a child hard to place for adoption

Limitation on Subsidy

Statute: § 30:4C-47; § 30:4C-46

- Payments may not exceed the cost of providing comparable assistance in foster care.
- There must be a reasonable effort for unsubsidized placement, except in situations involving adoption by a child's foster parent.

Termination or Modification of Subsidy**Statute: § 30:4C-47**

Payments shall not be made after the adoptive child becomes 18 years of age, except that payments not to exceed 80% of the costs shall be made until the child becomes age 21 if the child's needs cannot be met without assistance.

Certification for Subsidy**Statute: § 30:4C-48; § 30:4C-46**

- Qualification for subsidy shall be determined and approved by the Division of Youth and Family Services prior to placement and may be re-determined annually thereafter.
- The adoptive family must be capable of providing the permanent family relationships needed by the child.

New Mexico**Children Eligible for Subsidy****Statute: § 32A-5-44**

Eligible children are those who are difficult to place, and the adoptive family is capable of providing nonfinancial support to the child. A difficult to place child is a child who is:

- Physically or mentally handicapped
- Emotionally disturbed
- In special circumstances by virtue of age, sibling relationship, or racial background

Limitation on Subsidy**Statute: § 32A-5-45**

- The payments in any category shall not exceed the cost of providing the assistance in foster care.
- The terms and conditions of the subsidy shall be based on the individual needs of the child.
- A written agreement stating the terms of the subsidy plan between the adoptive family and social services must precede the final decree.

Termination or Modification of Subsidy**Statute: § 32A-5-45**

The payments in any category of assistance shall not be made after the child reaches age 18.

Certification for Subsidy**Statute: § 32A-5-45**

In cases of subsidies that continue for more than 1 year, there shall be an annual redetermination of the need for a subsidy.

New York

Children Eligible for Subsidy

Statute: Soc. Serv. Law §§ 451; 453

- A handicapped child, which means a child who possesses a specific physical, mental, or emotional condition that would impede the child's adoption
- A hard to place child, which means a child who:
 - » Has not been placed within 6 months or has been placed within 6 months but returned to the care of social services
 - » Possesses any personal or familial attribute or condition that would impede the child's adoption

Limitation on Subsidy

Statute: Soc. Serv. Law § 453

- Adoptive parents must apply for the subsidy prior to adoption; however, an application may be made after adoption if the parents first become aware of the child's condition after adoption and a physician certifies that the condition existed prior to adoption.
- Financial status of the adoptive parents shall be considered for the purpose of determining subsidy amount.

Termination or Modification of Subsidy

Statute: Soc. Serv. Law § 453

- Payments shall be made until the child's 21st birthday.
- Payments terminate if the adoptive parents are no longer legally responsible for the child or the child is no longer receiving any support from such parents.

Certification for Subsidy

Statute: Soc. Serv. Law § 453

- The adoptive parents shall be reminded on a biennial basis of their obligation to support the child and to notify the social services official if the adoptive parents are no longer supporting or no longer legally responsible for the child.
- The regulations that guide payments shall be reviewed annually.
- The subsidy agreement shall be subject to the approval of the department upon its application.

North Carolina

Children Eligible for Subsidy

Statute: § 108A-49

- For a child who cannot be returned to his/her parents
- The child who has special needs that create a financial barrier to adoption

Limitation on Subsidy

Statute: § 108A-50

Assistance shall not be provided when the needed services are:

- Available free of cost to the adoptive child
- Covered by an insurance policy of the adoptive parents
- Available to the child under the Adoption Assistance Program specified in § 108A-49

Termination or Modification of Subsidy**Statute: § 108A-48**

No benefits shall be granted to any individual who has passed age 18 unless he or she:

- Is younger than age 21 and is a full-time student
- Has been accepted for enrollment as a full-time student for the next school term pursuing a high school diploma or its equivalent, a course of study at the college level, or a course of vocational or technical training

Certification for Subsidy**Statute: § 108A-50**

Eligibility for an adoptive child to receive assistance shall be determined by the department under the rules and regulations of the Social Services Commission.

North Dakota**Children Eligible for Subsidy****Statute: § 50-28-02.02**

A child with special needs, which is a child who is:

- Legally available for adoption and is age 7 or older
- Under 18 years of age with physical, emotional, or mental disability or has been diagnosed to be at high risk for such a disability
- A member of a minority or sibling group

Limitation on Subsidy**Statute: § 50-28-02.02**

The adopting parents may be required to enter into an agreement regarding:

- The type of assistance to be received
- The amount of assistance
- The identity of the physical, mental, or emotional condition for which medical assistance is received
- Any conditions for continued receipt of assistance

Termination or Modification of Subsidy**Statute: § 50-28-02.02**

- Assistance continues until the child becomes age 18, is emancipated, or dies; the adoption is terminated; or there is a determination of ineligibility by the county agency, whichever occurs first.
- If funds are available, assistance may be continued until the child is age 21 if the child is a regularly attending student of a secondary or postsecondary school or vocational school.

Certification for Subsidy**Statute: § 50-28-02.02**

Eligibility is determined by the county agency.

Northern Mariana Islands**Children Eligible for Subsidy**

Not addressed in statutes reviewed

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Ohio**Children Eligible for Subsidy**

Statute: §§ 5153.163; 5101.141

- A child with special needs
- A child with a physical or developmental handicap or mental or emotional condition
- A child defined as a 'child with special needs' by rules adopted by the Director of the Department of Job and Family Services

Note: **The State adoption special services subsidy program shall cease to exist on July 1, 2004, except a public children services agency may continue to provide special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004.** The State Department of Job and Family Services will continue to be the single State agency to administer Federal payments for adoption assistance under Title IV-E, under rules for eligibility adopted by the department.

Limitation on Subsidy

Statute: § 5153.163

- The needs of the child must be beyond the economic resources of the adoptive family.
- The public children services agency must determine that unsubsidized adoption would not be in the child's best interests.
- Payment of maintenance costs shall not be made if:
 - » The parent's gross income exceeds 120% of the median for family size
 - » The child is eligible for Federal Title IV-E assistance

Termination or Modification of Subsidy

Statute: § 5153.163

Payment shall not be made on behalf of any person age 21 years or older.

Certification for Subsidy

Statute: § 5153.163

- The subsidy agreement is subject to an annual redetermination of need.
- The adoptive family must be able to provide the child with nonfinancial support.

Oklahoma

Children Eligible for Subsidy

Statute: Title 10 § 7510-1.4

A child is eligible if the department determines:

- The child cannot be returned to his/her parents.
- Factors or conditions exist that suggest placement will not occur without providing assistance.

Limitation on Subsidy

Statute: Title 10 §§ 7510-1.4; 7510-1.5

- Reasonable efforts must be made for unsubsidized adoption unless there is evidence of significant emotional ties between the child and the foster parent(s).
- Subsidy may not exceed the amount that would be allowable under traditional foster care, or in the case of a special service, the reasonable fee for the service rendered.

Termination or Modification of Subsidy

Statute: Title 10 § 7510-1.5

- No payment may be made after a child reaches age 18, except where the child has a physical or mental handicap that warrants the continuation of assistance until the child reaches age 21.
- The adoptive parents may request termination or modification at any time.

Certification for Subsidy

Statute: Title 10 § 7510-1.5

- A child must be certified as eligible for subsidy.
- When subsidies are for more than 1 year, the adoptive parent(s) shall present an annual affidavit that the child remains under their care and the conditions that caused certification still exist.
- The Department of Human Services is authorized and directed to make a review of each subsidy annually to assure that the parents are fulfilling their contractual obligation.

Oregon

Children Eligible for Subsidy

Statute: § 418.330

- A child with special needs because of a handicap to placement by reason of the child's physical or mental condition, race, age, or membership in a sibling group
- A child whose adoptive family is capable of providing the nonfinancial relationship needed by the child and whose needs are beyond the economic resources of the family

Limitation on Subsidy

Statute: § 418.330

Payments may not exceed the cost of providing comparable assistance in foster care.

Termination or Modification of Subsidy**Statute: §§ 418.330; 418.335**

- Payments shall not be made after the adoptive child becomes 18 years of age.
- The department may increase, decrease, suspend, or terminate payments at any time in its discretion.

Certification for Subsidy**Statute: § 418.335**

Qualification for payments shall be determined prior to the completion of the adoption and shall be re-determined annually thereafter.

Pennsylvania**Children Eligible for Subsidy****Statute: 62 Pa. § 772**

A child in the custody of local authorities where parental rights have been terminated and the child has been in foster placement for no less than 6 months and where the child is hard to place because of:

- Physical and/or mental handicap
- Emotional disturbance
- Age
- Sibling relationship or
- Ethnicity

Limitation on Subsidy**Statute: 62 Pa. § 774**

The amount of adoption subsidy shall not exceed the monthly payment rate for foster care.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy**Statute: 62 Pa. § 773**

The Department of Public Welfare shall develop criteria and regulations for identifying eligible children and adoptive homes.

Puerto Rico**Children Eligible for Subsidy**

Not addressed in statutes reviewed

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Rhode Island**Children Eligible for Subsidy**

Statute: § 15-7-25

Children with disabilities or hard-to-place children

Limitation on Subsidy

Statute: § 15-7-25

Funds will be disbursed in accordance with the guidelines to be promulgated by the Department of Children, Youth, and Families.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

South Carolina**Children Eligible for Subsidy**

Statute: § 20-7-1925

A child who is legally free for adoption, has been placed by the department, and meets at least one of the following criteria:

- Is a special needs child
- Is at high risk of developing a physical, mental, or emotional disability
- Is subject to other factors that interfere with the child's placement
- Has significant emotional ties with prospective adoptive parents

Limitation on Subsidy

Statute: § 20-7-1950

- A written subsidy agreement must be executed between the adoptive parents and the department.
- Subsidy may not exceed the amount that would be allowable under foster family care or, in the case of special services, the reasonable fee for the service rendered.

Termination or Modification of Subsidy

Statute: § 20-7-1920

Payments may continue up to the child's 21st birthday.

Certification for Subsidy**Statute: § 20-7-1950**

- When benefits last more than 1 year, the adoptive parents shall certify that the child remains under the parents' care and that the child's need for supplemental benefits continues.
- A child deemed eligible remains eligible and will receive benefits regardless of the residency of the adoptive parents.

South Dakota**Children Eligible for Subsidy****Statute: § 28-1-64**

- A child with special needs.
- A child that would not be adopted but for adoption by the adoptive family

Limitation on Subsidy**Statute: § 28-1-64**

The needs of the child must go beyond the economic ability and resources of the adoptive family.

Termination or Modification of Subsidy**Statute: § 28-1-64**

Subsidy shall terminate on or before the child's 21st birthday.

Certification for Subsidy**Statute: § 28-1-64**

The adoptive family must have the capability of providing the nonfinancial relationships needed by the child.

Tennessee**Children Eligible for Subsidy****Statute: § 37-5-106 (13)**

A child who has special needs, is difficult to place because of physical handicap, mental, or emotional condition, or has other serious impediments to adoption

Limitation on Subsidy**Statute: § 37-5-106 (13)**

The Department shall establish rules and regulations concerning the provision of financial assistance to persons who adopt a child who has special needs or is difficult to place.

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Texas**Children Eligible for Subsidy****Statute: § 162.304**

The department shall enter into adoption assistance agreements with the adoptive parents of a child as authorized by Part E of Title IV of the Federal Social Security Act, as amended (42 U.S.C. § 673).

Limitation on Subsidy**Statute: § 162.304**

The amount of the subsidy shall be determined by the department.

Termination or Modification of Subsidy**Statute: § 162.3041**

- Assistance may be offered until the child's 21st birthday if:
 - » The child has a physical or mental disability that warrants continued assistance
 - » Application has been made for Federal benefits stipulated under 42 U.S.C. §1381 et. seq.
 - » The adoptive parents are providing the child's financial support
- Assistance may be offered after a child's 18th birthday or until:
 - » The child stops attending high school or vocational school
 - » The child obtains a high school diploma or its equivalency
 - » The child's adoptive parents stop providing financial support to the child
 - » The child turns age 19

Certification for Subsidy**Statute: §§ 162.304; 162.3041**

- Need for the subsidy shall be determined by the department.
- The department may conduct an assessment of the child's mental or physical disability to determine continuation of benefits.

Utah**Children Eligible for Subsidy****Statute: § 62A-4a-902**

A child with special needs or a child who cannot and should not be returned to his/her parents and who meets at least one of the following conditions:

- Is age 5 or older
- Is under age 18 with a physical, emotional, or mental disability; or
- Is a member of a sibling group

Limitation on Subsidy**Statute: §§ 62A-4a-903; 904; 905**

- Adoption assistance and supplemental adoption assistance shall be based on:
 - » The needs of the child
 - » The resources available to the child
 - » The Federal requirements of 42 U.S.C. § 473, the Social Security Act
- Subsidy may not exceed the amount that would be allowable under foster family care.
- Supplemental adoption assistance shall be provided only after all other resources for which a child is eligible have been exhausted.

Termination or Modification of Subsidy**Statute: § 62A-4a-906**

Adoption assistance shall be terminated if any of the following occur:

- The child reaches age 18, unless approval has been given by the Division to continue beyond age 18 due to mental or physical disability, but in no case shall the assistance continue after the child reaches age 21.
- Adoptive parents request termination.
- The child or adoptive parents die.
- The adoptive parents' legal responsibility for the child ceases.
- The State determines that the child is no longer receiving support from the parents.
- The child marries.
- The child enters military service.

Certification for Subsidy**Statute: § 62A-4a-905**

The department shall establish at least one advisory committee to review and make recommendations to the Division on individual requests for supplemental adoption assistance.

Vermont**Children Eligible for Subsidy****Statute: Title 15A § 1-101**

A child with special needs or a child with a special factor or condition, including:

- Ethnic background
- Age
- Membership in a minority or sibling group
- Medical condition
- Physical, mental, or emotional handicap

Limitation on Subsidy

Not addressed in statutes reviewed

Termination or Modification of Subsidy

Not addressed in statutes reviewed

Certification for Subsidy

Not addressed in statutes reviewed

Virgin Islands**Children Eligible for Subsidy****Statute: Title 34 § 352**

A minor who is legally free for adoption, and:

- Has significant ties with prospective adoptive parents while in their care as a foster child
- Is not likely to be adopted because of a physical or mental disability, emotional disturbance, high risk of physical or mental disease, age, sibling relationship, racial or ethnic factors, or any combination of these conditions

Limitation on Subsidy**Statute: Title 34 §§ 354; 355**

- Reasonable efforts must be made for unsubsidized adoption.
- There must be a written agreement between the family entering into the subsidized adoption and the Department of Human Services.
- Amount shall not exceed that which would be allowable under foster family care.
- The amount will vary with the child's needs and the availability of other resources.

Termination or Modification of Subsidy**Statute: Title 34 § 355**

- The agreement shall continue in accordance with its terms as long as:
 - » The adopted child is the legal dependent of the adoptive parents.
 - » The child's condition continues, except that, in the absence of other resources provided by law, it may be continued after the child reaches majority.
- The adoptive parents may request termination or modification at any time.

Certification for Subsidy**Statute: Title 34 § 355**

- Adoptive parents shall present an affidavit to the Department attesting that the child remains under their care and that the condition(s) that caused the subsidy continue(s) to exist.
 - A child determined to be eligible will remain eligible and will receive benefits regardless of the adoptive parents' residency.
-

Virginia

Children Eligible for Subsidy

Statute: § 63.2-1300

- A child with special needs is any child in custody of a local board and who is legally free for adoption.
- An eligible child is in custody of an agency and has been determined as unlikely to be adopted within a reasonable period of time due to:
 - » A physical, mental, or emotional condition
 - » A substantial risk of future disability
 - » Age or racial or ethnic factors
 - » A close relationship with siblings.
- An eligible child includes a child diagnosed with these conditions only up to 1 year after the final adoption order.

Limitation on Subsidy

Statute: §§ 63.2-1301; 1302

- Reasonable efforts shall be made for unsubsidized placement.
- A maintenance subsidy shall not exceed the maximum amount allowable under foster care.

Termination or Modification of Subsidy

Statute: § 63.2-1302

- Payments shall cease when the child reaches age 18.
- Payments may continue until the child reaches age 21 if it is determined that the child has a mental or physical handicap or an educational delay resulting from such handicap.
- Maintenance subsidy agreements shall not be reduced unless the circumstances of the child or adoptive parents have changed significantly.

Certification for Subsidy

Statute: § 63.2-1302

Adoptive parents shall submit annually an affidavit which certifies that:

- The child on whose behalf they are receiving payments remains in their care
- The child's condition requiring subsidy continues to exist
- Whether changes to the agreement are requested

Washington

Children Eligible for Subsidy

Statute: §§ 74.13.150; 74.13.109

- A child who:
 - » Was in placement funded by the department immediately prior to adoption
 - » Had a documented physical or mental handicap prior to adoption or was a high risk of developing such because of pre-adoption factors
 - » Resides in Washington with an adoptive parent who lacks the financial means to care for the child's special needs
- Children in, or likely to be placed in, foster homes or child caring institutions who are hard to place because of physical or other reasons including, but not limited to:
 - » Physical or mental handicap
 - » Emotional disturbance
 - » Ethnic background, language, race, color, age, or sibling group

Limitation on Subsidy

Statute: §§ 74.13.112; 115; 150

- Payments may vary according to family and year.
- Adoptive parents must sign a subsidy agreement.
- Services provided per any agreement between the family and the department shall be met by the department's medical program and shall be limited to:
 - » Services provided after finalization of an agreement
 - » Services not covered by the family's insurance or other available assistance
 - » Services related to the child's handicap or disturbance that existed prior to the adoption
 - » Services reimbursed by payments by the department directly to the physician or provider
 - » Not exceeding costs of \$20,000 per child

Termination or Modification of Subsidy

Statute: §§ 74.13.109; 118

- Payments shall cease when the child reaches age 18, becomes emancipated, dies, or otherwise ceases to need support, provided that support may be continued pursuant to §§ 26.33.320 and 74.13.100 to 74.13.145.
- Adjustments in payments shall be made every 5 years based on changes in the needs of the child, in the adoptive parents' income, resources, and expenses for the care of the child or other family members.

Certification for Subsidy

Statute: § 74.13.115

Payments shall be subject to review as provided in §§ 26.33.320 and 74.13.100 to 74.13.145.

West Virginia

Children Eligible for Subsidy

Statute: § 49-2-17

Children who are legally free for adoption and who are dependents of the Department or a placing agency and who:

- Have established emotional ties with prospective adoptive parents while in their care
- Have a physical or mental disability
- Are emotionally disturbed
- Are older
- Are part of a sibling group
- Are a member of a racial or ethnic minority
- Have any combination of the above

Limitation on Subsidy

Statute: § 49-2-17

- There must be a written agreement between the family entering into the adoption and the Department.
- Assistance will vary with the needs of the child and the availability of other resources to meet the child's needs.
- Subsidy may not exceed the amount that would be allowable under foster family care.
- Subsidy may not exceed the reasonable fee for a special service.
- Reasonable efforts must be made for unsubsidized placement except in the case of a foster care child to be adopted by his foster parent(s).

Termination or Modification of Subsidy

Statute: § 49-2-17

Subsidy may be for special services or for a limited time period.

Certification for Subsidy

Statute: § 49-2-17

The Department shall certify the child as eligible for a subsidy.

Wisconsin

Children Eligible for Subsidy

Statute: § 48.975

- A child who, at the time of placement, is in the custody of the department, an agency, or an American Indian tribal agency in this State
- A child who has special needs, which includes a child who, at the time of placement:
 - » Has moderate or intensive difficulty-of-care problems
 - » Is at high risk of developing such problems

Limitation on Subsidy**Statute: § 48.975**

- The department must assure that assistance is necessary to the child's adoption.
- Subsidy is subject to the provisions stipulated in this section.
- Parents shall enter into a written agreement.

Termination or Modification of Subsidy**Statute: § 48.975**

- Assistance may be continued after the adoptee reaches age 18 if the adoptee is a full-time high school student.
- If a request is made for increase of subsidy, the department will base its decision regarding whether or not to modify the subsidy on whether there has been a substantial change in circumstances.

Certification for Subsidy**Statute: § 48.975**

The department shall annually review an agreement that has been amended to determine whether the substantial change in circumstances that was the basis for amending the agreement continues to exist.

Wyoming**Children Eligible for Subsidy****Statute: § 1-22-115**

A child, who at the time of placement, is in the custody of the department or placing agency and who is legally free for adoption and who has special needs as determined by the division

Limitation on Subsidy**Statute: § 1-22-115**

- Reasonable efforts must be made for unsubsidized placement.
- Payments shall not exceed the amount of payments for comparable assistance under foster care.

Termination or Modification of Subsidy**Statute: § 1-22-115**

Payments shall be terminated or reduced if the need for payments no longer exists or if the child has reached the age of majority.

Certification for Subsidy**Statute: § 1-22-115**

- The department shall review all payments not less than annually.
- Adoptive parents must be able to provide the nonfinancial needs of the child.

Florida's Center for the Advancement of Child Welfare Practice

This article was posted with permission from Child Welfare Information Gateway. Please visit their website at: www.childwelfare.gov/systemwide/laws_policies/statutes/sneeds.cfm for additional information