ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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	3. Originating Office: Children's Bureau	
	4. Key Words: Family First Prevention Services Act, Title IV-E Plan Amendment, Delayed Effective Date	

PROGRAM INSTRUCTION

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

SUBJECT: Public Law 115-123, the Family First Prevention Services Act: Implementation of Title IV-E Plan Requirements

LEGAL AND RELATED REFERENCES: Titles IV-B and IV-E of the Social Security Act, as amended by Public Law 115-123, enacted February 9, 2018

PURPOSE: To provide instruction for: 1) changes to the title IV-E plan requirements as a result of the Family First Prevention Services Act that are effective as of January 1, 2018 and later; and 2) delayed effective dates for title IV-B/E plan requirements.

INFORMATION: The President signed the Bipartisan Budget Act of 2018, Public Law (P.L.) 115-123 into law on February 9, 2018. P.L. 115-123 includes the Family First Prevention Services Act (FFPSA) in Division E, Title VII. FFPSA made a number of changes to titles IV-B and IV-E of the Social Security Act (the Act). We now issue this Program Instruction (PI) to provide instructions for agencies to: 1) amend the Title IV-E Plan Pre-Print (Pre-Print) to meet certain FFPSA title IV-E plan provisions that are effective January 1, 2018 and later, and 2) request a delay of effective dates for certain title IV-B and IV-E plan requirements where permitted by law. We are providing a new comprehensive Pre-Print due to the scope of changes from P.L. 115-123, and because title IV-E agencies may find it helpful to have all program information in one place. Title IV-E agencies may complete the new comprehensive Pre-Print in its entirety, so that references for all requirements are listed in one document. Alternatively, title IV-E agencies may choose to complete and submit documentation for only the highlighted portions of the Pre-Print reflecting provisions added or amended by FFPSA. In either case, the focus of the Children's Bureau (CB) review at this time will be on the new provisions.

ACYF-CB-IM-18-02 provides a summary of FFPSA. ACYF-CB-PI-18-06 provides instructions on addressing FFPSA amendments to the title IV-B programs and the Chafee Foster Care Program for Successful Transition to Adulthood, authorized by section 477 of the Act.

Instructions for submitting a title IV-E plan amendment to implement the prevention services plan under section 471(e) of the Act and guidance for implementing Evidence-Based Kinship Navigator Programs under section 474(a)(7) of the Act will be provided in separate issuances.

Organization of the Program Instruction

Section A. Required Title IV-E Plan Amendments:

1. Title IV-E plan provisions effective January 1 and February 9, 2018
2. Title IV-E plan provisions effective October 1, 2018
3. Title IV-E plan provisions effective April 1, 2019
4. Title IV-E plan provisions effective October 1, 2019
5. STATES ONLY: Title IV-E plan provision required no later than October 1, 2027

Section B. Delayed Effective Dates

PI Attachments

A. Children's Bureau Regional Program Managers
B. Certification of Required Legislation
C. Request for Delay
D. Title IV-E Plan Pre-Print (including Pre-Print Attachments I –XI)

SECTION A. REQUIRED TITLE IV-E PLAN AMENDMENTS

Title IV-E agencies must submit the following amendments to the Pre-Print (Attachment D) to the appropriate Children's Bureau (CB) Regional Program Manager (Attachment A) for approval no later than the date indicated in the instructions below. The title IV-E agency must sign and include Attachment I of the Pre-Print (Plan Submission Certification) every time the agency submits an amendment(s).

1. Title IV-E plan provisions effective January 1 and February 9, 2018:

- *Delay of Adoption Assistance phase-in of applicable child requirements:*

    - Before FFPSA, all children were considered an "applicable child" for determining eligibility for title IV-E adoption assistance as of October 1, 2017. However, the FFPSA revised the program eligibility rules to delay phasing in the "applicable child" requirements based on the age of the child. This means that from January 1, 2018 until June 30, 2024, the "applicable child" requirements apply only to children who will be age two or older by the end of the fiscal year their adoption assistance agreement was entered into. However, a child may still be considered "an applicable child" if the child is a *sibling* of an "applicable child" and meets requirements as detailed at section 473(a)(2)(A)(ii) of the Act. Title IV-E adoption assistance agreements entered into prior to January 1, 2018 are not affected by these changes.

    - Beginning January 1, 2018, title IV-E agencies must determine whether a child is an "applicable child" based on the child's age by the end of the fiscal year their adoption assistance agreement was entered into as demonstrated by the table below:

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

- Title IV-E agencies may claim title IV-E allowable costs incurred pursuant to adoption assistance agreements entered into between January 1, 2018 and February 9, 2018 for children who were eligible for adoption assistance at the time that the agreements were entered into but lost their eligibility as a result of the change made by FFPSA. These are children who were eligible under the "applicable child" eligibility requirements in effect before FFPSA was passed, but who will not reach the age of two by the end of fiscal year 2018. (Some of these children may otherwise be eligible for adoption assistance under the criteria for a child who is not applicable or could be an applicable child by virtue of being the sibling of an applicable child as explained at section 473(e)(3) of the Act.)

- Title IV-E agencies may be reimbursed for title IV-E adoption assistance payments made only for the period during which such a child was eligible under the rules as in effect at that time. Title IV-E agencies may also claim federal financial participation (FFP) for title IV-E administrative costs for the full month during which such a child was eligible under the rules as in effect at the time. For example, if a title IV-E agency provided an adoption assistance payment and incurred administrative costs for such a child for the full month of February 2018, the title IV-E agency may claim for the prorated portion of the title IV-E adoption assistance payment made for February 1-February 9, 2018, and may claim title IV-E administrative costs allocated in accordance with its approved cost allocation plan or cost allocation methodology for the full calendar month.

  INSTRUCTION: No later than 30 days after the date this PI is issued (August 9, 2018), the title IV-E agency must submit an amendment to section 3.A.II, pages 73- 77 of the Pre-Print (Attachment D).

- *Proof of foster care:*

As of February 9, 2018, the title IV-E agency must provide a youth in foster care for more than 6 months any official documentation necessary to prove the child was previously in foster care before aging out of foster care (section 475(5)(I) of the Act). The title IV-E agency has the flexibility to determine the process for doing so considering that the documentation may be necessary for youth to prove eligibility for a program or benefit, such as Medicaid.

INSTRUCTION: No later than 30 days after the date this PI is issued (August 9, 2018), the title IV-E agency must submit an amendment to section 2.D.7., pages 42- 43 of the Pre-Print (Attachment D).

2. Title IV-E plan provisions effective October 1, 2018:

- *Title IV-E foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse:*

  - Beginning October 1, 2018, title IV-E agencies may claim title IV-E foster care maintenance payments (FCMPs) for a child placed with a parent in a licensed residential family-based treatment facility for substance abuse for up to 12 months in accordance with requirements in sections 472(j) and 472(a)(2)(C) of the Act. Title IV-E agencies may also claim administrative costs during the 12 month period consistent with 45 CFR 1356.60(c) for the administration of the title IV-E program, which includes such things as case management. A licensed residential family-based treatment facility for substance abuse is not a child care institution (CCI) as defined in section 472(c) of the Act. While the facility must be licensed, there is no requirement that it meet the title IV-E licensing and background check requirements for a CCI.

  - The title IV-E agency may claim FCMPs in accordance with the definition in section 475(4)(A) of the Act, which includes such things as the cost of providing food, clothing, shelter, and daily supervision. However, because a licensed residential family-based treatment facility for substance abuse is not a CCI, the title IV-E agency may not include the costs of administration and operation of the facility in the child's title IV-E FCMP. Also see section 472(k)(1)(A) of the Act.

  - The child must meet all the title IV-E foster care eligibility requirements except the AFDC eligibility requirements in sections 472(a)(1)(B) and (3) of the Act. The requirement that the child is under the placement and care responsibility of the title IV-E agency while placed with the parent in the facility remains in effect.

    INSTRUCTION: No later than September 30, 2018, the title IV-E agency must submit an amendment to sections 2.A.1.c, page 12; 2.A.1.d.iii., page 14; and 4.A.3., page 94 of the Pre-Print (Attachment D).

- *Criminal record and registry checks for adults working in child-care institutions:* FFPSA makes changes to the title IV-E requirements at section 471(a)(20)(D) of the Act (criminal record and child abuse and neglect registry checks).

    - Currently, as a condition of eligibility for title IV-E funds, title IV-E agencies must provide in their IV-E plan that they implement procedures for criminal background checks, including: fingerprint-based criminal records checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code) for prospective foster parents, adoptive parents, and relative guardians, and child abuse and neglect registry checks for each prospective foster or adoptive parent and any adult living in the home. The criminal records check must reveal that the prospective foster or adoptive parent has not been convicted of the prohibited felonies, and in the case of a foster family home, the home must be licensed or approved (sections 471(a)(20)(A)(i) and (ii) of the Act).

    - FFPSA requires that title IV-E agencies apply these same procedures for fingerprint-based criminal records checks of national crime information databases and child abuse registry checks to any adult working in a CCI, which includes group homes, residential treatment centers, shelters, and other congregate care settings.

        - The statute does not allow any exemptions or exceptions for conducting the checks on any adults who work in such settings. As such, all adults, including adults who do not work directly with children, are subject to the background check requirements when working in a CCI.

        - Agencies may determine their own procedures for conducting checks on unpaid volunteers.

        - Additionally, the title IV-E agency may decide which entity within the state/tribe is best situated to conduct the required checks; the agency is not required to conduct them directly.

    - Title IV-E agencies may use alternative procedures to conduct criminal records and child abuse registry checks; however, if the agency elects to use an alternate procedure, the agency must describe in Attachment IX of the Pre-Print why the procedures required in section 471(a)(20)(D) of the Act for conducting the checks are inappropriate for the agency. The alternate procedures, however, must still provide for conducting both checks on every adult working in the institution.

    - These checks or alternate procedures must be completed for all adults working in a CCI no later than October 1, 2018 (or the delayed effective date as elected by the agency). To the extent that title IV-E agencies incur administrative costs as a result of implementing this requirement, the title IV-E agency may claim title IV-

E administrative costs in accordance with an approved title IV-E cost allocation plan or cost allocation methodology (45 CFR 1356.60).

- Federal regulations at 45 CFR 1356.30(f) continue to apply to claiming title IV-E FCMPs on behalf of a title IV-E eligible child. Per these regulations, in order for a child placed in a CCI to be eligible for title IV-E funding, the CCI's licensing file must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed. However, as of the agency's effective date for meeting the requirements of section 471(a)(20)(D) of the Act, the safety considerations in the licensing file must consist of proof that the background checks or alternate procedures required by section 471(a)(20)(D) of the Act for all adults working at the CCI were conducted. CB is adopting this new interpretation of 45 CFR 1356.30(f) for consistency with the new statutory requirements imposed by FFPSA.

  INSTRUCTION: No later than September 30 2018, the title IV-E agency must submit an amendment to section 4.J.1.d, pages 104 -105 of the Pre-Print (Attachment D), unless a legislative delay is approved by the Secretary. If the Secretary approves a delay, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment B to this PI. If an agency chooses to use alternative procedures for criminal record and child abuse and neglect registry checks, the agency must submit Attachment IX of the Pre-Print (Attachment D).

3. Title IV-E plan provisions effective April 1, 2019**:**

- *Model licensing standards for foster family homes* (section 471(a)(36) of the Act)*:* By April 1, 2019, title IV-E agencies must provide the U.S. Department of Health and Human Services (HHS) specific and detailed information about:

  - Whether the agency foster family home licensing standards are consistent with the model licensing standards identified by HHS and if not, the reason for the deviation (model standards identified by the Secretary will be provided in a separate issuance), and

  - Whether the agency waives non-safety licensing standards for relative foster family homes (pursuant to waiver authority provided by section 471(a)(10)(D) of the Act), and if so, how caseworkers are trained to use the waiver authority and whether the agency has developed a process or provided tools to assist caseworkers in waiving these non-safety standards to quickly place children with relatives.

    INSTRUCTION: Unless a legislative delay or a delay for tribes, tribal organizations or consortia is approved by the Secretary**,** no later than March 31, 2019, the title IV-E agency must submit an amendment to sections 4.A, pages 89 - 91 and 7.D., pages131-132 and Attachment X of the Pre-Print (Attachment D)

describing certain information regarding the waiver of non-safety licensing standards and reasons for any deviation from the model licensing standards identified by the Secretary.

If the Secretary approves a delay, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment B or Attachment C to this PI.

4. Title IV-E plan provisions effective October 1, 2019:

- *Certification preventing increases to the juvenile justice population:*
  Title IV-E agencies must certify they will not enact policies that will significantly increase the state/tribe's juvenile justice population in response to the restrictions on title IV-E FCMPs for CCIs in section 472(k) of the Act (limitation on FFP for a child placed in a CCI) (section 471(a)(37) of the Act).

  INSTRUCTION: Unless the title IV-E agency elects a delayed effective date by submitting a Request for Delay (Attachment C), no later than September 30, 2019, the title IV-E agency must submit an amendment, page 142, Attachment VIII of the Pre-Print (Attachment D).

  If the Secretary approves a delay, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment C to this PI.

- *Limitations on title IV-E foster care maintenance payments for placements that are not foster family homes:*
  Title IV-E agencies may claim 14 days of title IV-E FCMPs each time a child is "placed in a child care institution" regardless of whether the child has had previous CCI placements during his or her foster care episode (section 472(k)(1) of the Act). (See pages 10-12 for additional conditions for claiming for placements in qualified resident treatment programs (QRTPs) that may not permit claiming for the first 14 days.) Below, we provide clarifications on some of the requirements for claiming title IV-E FCMPs for settings that are not foster family homes. We will provide additional guidance regarding CB oversight on the limitations on title IV-E FCMPs for placements that are not foster family homes in a separate issuance.

  - If the CCI is one of the following settings, title IV-E FCMPs may continue after 14 days if the setting meets all requirements specified in statute and policy as described below (section 472(k)(2) of the Act):

    - a setting specializing in providing prenatal, post-partum, or parenting supports for youth. The facility must meet the definition of a CCI at sections 472(c)(2)(A) and (C) of the Act, but the statute does not provide additional parameters for placing a child in this setting (section 472(k)(2)(B) of the Act), and CB is not defining it further.

- a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims as identified by the title IV-E agency. The facility must meet the definition of a CCI at sections 472(c)(2)(A) and (C) of the Act (section 472(k)(2)(D) of the Act). The statute does not define "a setting that provides high quality residential care and supportive services to children and youth who have been or found to be or are at risk of being, sex trafficking victims" and ACF is not defining it further. This means title IV-E agencies have flexibility in determining what "high quality residential care" consists of, what "supportive services" are provided by the setting, and which children are "found to be or are at at-risk of becoming" victims of sex trafficking (consistent with the definition of "victim of sex trafficking" noted in section 475(9) of the Act).

- a supervised setting in which the child is living independently (in the case of a child who has attained 18 years of age). This setting must be consistent with the statute at sections 472(c)(2)(B) and (C) of the Act, and the instruction provided in ACYF-CB-PI-10-11 as follows: "a title IV-E agency has the discretion to develop a range of supervised independent living settings which can be reasonably interpreted as consistent with the law, including whether or not such settings need to be licensed and any safety protocols that may be needed. For example, a title IV-E agency may determine that when paired with a supervising agency or supervising worker, host homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments or another housing arrangement meet the supervised setting requirement" (section 472(k)(2)(C) of the Act).

- If the child's placement is a licensed residential family-based substance abuse treatment facility, consistent with section 472(j) of the Act, the title IV-E agency may claim title IV-E FCMPs for up to 12 months (section 472(k)(1)(A) of the Act). The setting must meet all the requirements specified in statute and further described in the section of this PI entitled "Title IV-E foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse".

- Title IV-E agencies may claim otherwise allowable administrative costs for a child's placement in a CCI regardless of whether the facility meets the requirements described in section 472(k)(1) of the Act (section 472(k)(5) of the Act).

- The setting limitations described above apply to new placements in these settings made on or after the effective date of the provisions in section 472(k) of the Act. Title IV-E agencies may claim title IV-E FCMPs for a child placed in a CCI prior to the effective date of section 472(k) of the Act for as long as the eligible child continuously remains in that setting. If the child later leaves this setting and

enters a different non-foster family home setting, the title IV-E agency must apply section 472(k) of the Act.

INSTRUCTION: Unless the title IV-E agency elects a delayed effective date by submitting a Request for Delay (Attachment C), no later than September 30, 2019, the title IV-E agency must submit an amendment to section 2.C.2.b., pages 19-21 of the Pre-Print (Attachment D).

If the Secretary approves a delay, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment C to this PI.

- *Definition of foster family homes:*

  - For purposes of titles IV-B/IV-E of the Act, a 'foster family home' is the home of an individual or family:

    - that is licensed or approved by the state or tribe in which it is situated as a foster family home that meets the standards established for the licensing or approval;
    - in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the state or tribe to be a foster parent;
    - that the state or tribe deems capable of adhering to the reasonable and prudent parent standard;
    - that provides 24-hour substitute care for children placed away from their parents or other caretakers; and
    - that provides care for up to six children who are in foster care. (See section 472(c) of the Act for additional requirements).

  - The statute allows title IV-E agencies to make exceptions to the numeric limitation to allow: parenting youth to remain with his/her child; siblings to stay together; a child with a meaningful relationship with a family to stay with that family; and a family with special training or skills to care for a child with severe disabilities (section 472(c) of the Act).

  - The statute now limits the definition of foster family home to a "home of an individual or family," and requires that the foster parent resides in the home with the child (section 472(c)(1)(A)(ii) of the Act). This means that the term may no longer include "group homes, agency-operated boarding homes or other facilities licensed or approved for the purpose of providing foster care…" as previously permitted in the regulatory definition at 45 CFR 1355.20(a) if that facility is not the home of an individual or family.

  - The definition of a foster family home still requires it to be "licensed or approved by the state in which it is situated as a foster family home that meets the standards established for the licensing and approval" (section 472(c)(1)(A)(i) of the Act).

This still means that the foster family home must meet the standards set by the state or tribe regardless of whether the title IV-E agency, another public agency or a private agency licenses/approves the homes.

INSTRUCTION: Unless the title IV-E agency elects a delayed effective date by submitting the Request for Delay (Attachment C), no later than September 30, 2019, the title IV-E agency must submit an amendment to section 4.A.1., pages 90-92 of the Pre-Print (Attachment D).

If the Secretary approves the delay, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment C to this PI.

- *Qualified residential treatment program placements:*
  A QRTP placement is a specific category of a non-foster family home setting, for which title IV-E agencies must meet detailed assessment, case planning, documentation, judicial determinations and ongoing review and permanency hearing requirements for a child to be placed in and continue to receive title IV-E FCMPs for the placement (sections 472(k)(1)(B) and 475A(c) of the Act). The facility must also meet the definition of a CCI at sections 472(c)(2)(A) and (C) of the Act, including that it must be licensed (in accordance with section 471(a)(10) of the Act) and that criminal record and child abuse and neglect registry checks must be completed in accordance with section 471(a)(20)(D) of the Act. Further, it must be accredited by one of the independent, not-for-profit organizations specified in the statute or one approved by the Secretary (see below for more information)

  Below, we provide clarifications on some, but not all, of the major requirements for a child's placement in a QRTP. CB will address how we will review these facilities during a title IV-E eligibility review at a later time.

  - 30-day assessment by a qualified individual. A qualified individual must assess a child placed in a QRTP within 30 days of the start of each placement in a QRTP (section 475A(c)(1)(A) of the Act). The qualified individual may conduct this assessment prior to the placement in the QRTP, but must complete it no later than the end of the 30-day period. If the assessment is not completed within 30 days, the title IV-E agency cannot claim title IV-E FCMPs for the entirety of the QRTP placement (including not for the first 14 days), but may claim title IV-E administrative costs during the placement in the QRTP (section 472(k)(3)(A) of the Act). These are administrative costs as defined in 45 CFR 1356.60 for the administration of the title IV-E program, and not the costs of the administration and operation of the QRTP/CCI. Those costs are only allowable when a title IV-E FCMP is provided for the child.

  - Qualified individual**.** The term "qualified individual" means a trained professional or licensed clinician who is not an employee of the title agency and who is not connected to, or affiliated with, any placement setting in which children are

placed by the title IV-E agency. For example, a qualified individual may be a licensed social worker or a trained child welfare worker.

- The title IV-E agency may request that HHS waive the "qualified individual" requirements as part of the title IV-E plan submission thereby allowing the individual to be an employee of the agency and/or connected to or affiliated with a placement setting in which children are placed by the agency. In doing so, the title IV-E agency must certify that the trained professionals or licensed clinicians will maintain objectivity in determining the most effective and appropriate placement for a child (section 475A(c)(1)(C) of the Act). CB has not promulgated guidance imposing additional requirements for the title IV-E agency to seek a waiver.
- However, the state may not seek to waive the requirement for a qualified individual to conduct the 30-day assessment, which must be done in conjunction with the family of, and permanency team for, the child while conducting and making the assessment.

- Attachment XI of the Pre-Print provides the agency an opportunity to request that HHS waive the "qualified individual" requirements if the title IV-E agency certifies that the trained professionals or licensed clinicians will maintain objectivity with respect to determining the most effective and appropriate placement for a child.

60 day court review. Within 60 days of the start of each placement in a QRTP, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, must, among other things, consider the assessment, determination, and documentation made by the qualified individual in approving the placement (section 475A(c)(2) of the Act). If the court does not approve the placement timely, i.e., within the 60-day timeframe, the title IV-E agency may only claim title IV-E FCMPs for the first 60 days of the placement in the QRTP (section 472(k)(1)(B) of the Act).

- Title IV-E foster care maintenance payment claims for a child exiting a QRTP. The title IV-E agency may claim title IV-E FCMPs to transition a child from the QRTP to the next placement or permanent home up to 30 days after:
  - the assessment required under section 475A(c)(1) determines that the QRTP is not appropriate;
  - a court disapproves such a placement under section 475A(c)(2); or
  - a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 473(k)(3)(B) of the Act).

- Long-term placements**.** For every QRTP the child is placed in for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months), the title IV-E agency must maintain the following documentation in the child's case plan and make it available for federal inspection and/or review upon request, during a title IV-E eligibility review, joint planning, or a partial review:

    - the most recent versions of the evidence and documentation specified in section 475A(c)(4) of the Act submitted at each status review and permanency hearing (e.g., demonstrating that the assessments of the child support a continued QRTP, documenting treatment or service needs, and preparation for return home or other placement), and the signed approval of the head of the state/tribal (or local) agency for the continued placement of the child in that setting (section 475A(c)(5) of the Act).

  Due to the sensitive nature of the confidential information contained in this documentation, and the inability of the CB to ensure that this personally identifiable information is secured during a submission process, we are not requiring the agency to submit it to CB outside of such inspection/review.

  The agency must document in the child's case plan that the head of the state, tribal, or local agency approved the child's continued placement in the QRTP to claim title IV-E FCMPs after the first 12 consecutive months or 18 nonconsecutive months of the placement (or, in the case of a child who has not attained age 13, the first six consecutive or nonconsecutive months) (section 472(k)(1)(B) of the Act).

- QRTP accreditation. The term "qualified residential treatment program" means a program that, among other requirements specified in section 472(k)(4) of the Act, is accredited by one of the independent, not-for-profit organizations specified in the statute or one approved by the Secretary (section 472(k)(4)(G) of the Act). Attachment XI of the Pre-Print provides the agency an opportunity to request that the Secretary approve other independent, not-for-profit accrediting organizations of a similar type and kind as those already identified in the Act.

- Assessment tool. The "qualified individual" must assess a child to determine the appropriateness of a placement in a QRTP using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary (sections 472(k)(4) and 475A(c) of the Act). The Secretary will approve the tool(s) as part of the title IV-E agency's plan amendment in sections 2.Q., pages 61-66 of the Pre-Print.

- Administrative costs. Title IV-E agencies may claim administrative costs for the duration of the placement in the QRTP regardless of whether the requirements in section 475A(c) of the Act (assessment, documentation and judicial determination requirements for placement in a QRTP) are met (section 472(k)(5)

of the Act). If the requirements in 475A(c) are not met, these include only administrative costs as defined in 45 CFR 1356.60(c) for the administration of the title IV-E program, and not the costs of the administration and operation of the QRTP. Those costs are only allowable when a title IV-E FCMP is provided for the child in the QRTP.

INSTRUCTION: Unless the title IV-E agency elects a delayed effective date by submitting the Request for Delay (Attachment C), no later than September 30, 2019, the title IV-E agency must submit an amendment to sections 2.Q., pages 62-67; 2.D.2.a., page 32 - 34; and 2.D.3.d., pages 38-39 of the Pre-Print (Attachment D). In addition:

- If a title IV-E agency would like to request a waiver to allow "qualified individuals" with responsibility for performing the assessments under section 475A(c)(1)(A) of the Act, to be employees of the agency and/or connected to or affiliated with any placement setting in which children are placed by the by the agency, the title IV-E agency must submit Attachment XI of the Pre-Print (Attachment D).

- If the title IV-E agency would like to request that the Secretary approve any other accrediting organization for purposes of section 472(k)(4)(G) of the Act, the title IV-E agency must submit Attachment XI of the Pre-Print (Attachment D) and attach such supporting documentation/information that the Secretary may require to render approval.

If a delay is approved by the Secretary, the title IV-E agency must submit the amendment no later than the effective date agreed to in Attachment C to this PI.

5. STATES ONLY: Title IV-E plan provision implementation no later than October 1, 2027**:**

- *Electronic interstate case processing system:*
  State title IV-E agencies must have a centralized electronic interstate case processing system by October 1, 2027 (section 471(a)(25) of the Act). Tribal title IV-E agencies are exempt from this requirement (section 479B(c)(4) of the Act).

  INSTRUCTION: No later than September 30, 2027 state title IV-E agencies must submit an amendment to *section 4.F.2.*, page 98 of the Pre-Print (Attachment D).

SECTION B. DELAYED EFFECTIVE DATES.

FFPSA allows certain implementation delays for title IV-E and IV-B agencies. A summary of such delays is provided below followed by instructions for agencies:

Effective Date	Title IV-E Plan Provision	Delays Permitted
January 1 2018	473 of the Act: Delay of Adoption Assistance phase-in	None
February 9, 2018	475(5)(I) of the Act: Proof of foster care	None
February 9, 2018	422(b)(15)(A)(vii) of the Act: protocols to prevent inappropriate diagnoses	Legislative delay permitted
February 9, 2018	422(b)(19) of the Act: STATES ONLY requirements related to child maltreatment deaths	Legislative delay permitted
October 1, 2018	472(j) and 472(a)(2)(C) of the Act: FCMPs for children with parents in a licensed residential family-based treatment facility for substance abuse	None
October 1, 2018	471(a)(20)(D) of the Act: Criminal record and registry checks for adults working in child-care institutions	Legislative delay permitted; Delay for title IV-E demonstration waivers permitted
April 1, 2019	471(a)(36) of the Act: Model licensing standards for foster family homes	Legislative delay permitted; Delay for tribes, tribal organizations or consortia permitted
October 1, 2019	• 471(a)(37) of the Act: Certification preventing increases to the juvenile justice population • 472(k)(2) of the Act: Limitations on title IV-E FCMPs for placements that are not foster family homes • 472(c) of the Act: Limit on number of children in a foster family home • 472(k)(1)(B) and 475A(c) of the Act: QRTPs	Request for up to a 2 year delay permitted
October 1, 2027	471(a)(25) of the Act: STATES ONLY Electronic interstate case processing system	None

1. Legislative delay:

- Congress provided a limited period of delay for certain plan requirements when the Secretary determines that legislation (other than legislation appropriating funds) is required for an agency to comply with the title IV-B or IV-E plan requirements imposed

by FFPSA. The amendments for which the Secretary will consider granting a legislative delay include sections:

- 422(b)(15)(A)(vii) of the Act, modifies title IV-B, subpart 1 plan for protocols to prevent inappropriate diagnoses;

- 422(b)(19) of the Act, for states only, modifies existing title IV-B, subpart 1 plan requirement related to child maltreatment deaths;

- 471(a)(20)(D) of the Act, criminal record and child abuse and neglect registry checks for adults working in child-care institution;, and

- 471(a)(36) of the Act, model licensing standards for foster family homes.

- The "delayed effective date" for these provisions is defined as the first day of the first calendar quarter beginning after the close of the first regular session of the legislature that begins after the date of enactment of FFPSA. If the state/tribe has a two-year legislative session, each year of the session is deemed to be a separate regular session of the legislature (sections 50734(b)(1) and 50746(a)(2) of P.L. 115-123). CB defers to states and tribes on what they consider to be a "regular session" of the legislature. For *example*:

  - CB may approve a delayed effective date of January 1, 2019 when the first regular legislative session that is held after the date FFPSA was enacted closes between October 1, 2018 and December 31, 2018.

  - If a state has a two year legislative cycle where the legislature does not meet in 2018, CB may approve a delayed effective date of July 1, 2019 when the first regular session that is held after the date FFPSA was enacted begins January 2019 and closes May 2019.

- CB is aware that some agencies may not be able to request legislative changes due to barriers such as legislative sessions that have already ended or the deadline for introducing new legislation has already passed. In those instances, agencies may work with the CB Regional Office to submit an opinion from the Attorney General's office (or, the highest legal authority in the tribe/state best positioned to interpret state/tribal law) that the agency is required to implement the provision through legislation. If the opinion of the office of the Attorney General or other legal authority is that legislation is required, then the agency must enter into a program improvement plan (PIP) outlining the steps needed to come into compliance. In this instance, CB will provide conditional approval of the title IV-E plan with final approval upon completion of the PIP.

  INSTRUCTION: <u>All</u> title IV-E agencies must submit the "Certification of Required Legislation" (Attachment B) indicating whether legislation is necessary to comply with the title IV-B/IV-E plan requirements in sections 422(b)(15)(A)(vii), 422(b)(19), 471(a)(20), and 471(a)(36) of the Act.

- Instructions for tribal title IV-B only agencies were provided separately in ACYF-CB-PI-18-06.

- If a delayed effective date is requested, the title IV-E agency must indicate the effective date in accordance with the definition above. This certification must be signed by the official with authority to sign the title IV-E plan, and submitted to the appropriate CB Regional Program Manager (Attachment A) for approval no later than 30 days from the issuance date of this PI (18-07).

- On or before the delayed effective date identified on the Certification of Required Legislation (Attachment B), the title IV-E agency must submit the appropriate plan amendment described below for approval.

2. Delay for up to two years for certain provisions that are effective October 1, 2019:

- A title IV-E agency may request a delayed effective date not to exceed two years for the provisions limiting the number of children that may be placed in a foster family home, limiting federal financial participation for placements that are not in foster family homes and those requiring assessment, documentation of the need for placement in a qualified residential treatment facility, and the certification for preventing increases to the juvenile justice population. If an agency so requests, this means that the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period of time (section 50746(b) of P.L. 115-123). If a delay is requested, the Secretary will provide it up to the statutory limit (September 30, 2021). The title IV-E provisions included in the delay are the amendments made to sections:

    - 471(a)(37) of the Act, certification preventing increases to the juvenile justice population;

    - 472(k) of the Act, limitations on title IV-E FCMPs for placements that are not foster family homes;

    - 472(c) of the Act, limit on number of children in a foster family home; and

    - 475A(c) of the Act, qualified residential treatment placement requirements.
      INSTRUCTION: Only title IV-E agencies electing to delay these provisions up to two years must submit the Request for Delay (Attachment C) and indicate the delayed effective date, which may not be later than September 30, 2021. The Request for Delay must be signed by the official with authority to sign the title IV-E plan, and submitted to the appropriate CB Regional Program Manager (Attachment A) no later than 120 days from the issuance date of this PI (18-07). Title IV-E agencies that elect to delay title IV-E provisions in sections 471(a)(37), 472(k), 472(c) or 475A(c) of the Act must submit the appropriate plan

amendments for approval on or before the delayed effective date identified on the Request for Delay (Attachment C).

3. Title IV-E Waivers:

- If the following provisions are inconsistent with an approved title IV-E waiver in effect on the date of enactment, the amendments to the section will not apply before the waiver expires[1]: sections 422(b)(15)(A)(vii) and 471(a)(20) of the Act.

  INSTRUCTION: The Children's Bureau is not aware of circumstances where approved waiver terms and conditions would be inconsistent with these amendments to the law. However, if a title IV-E agency with an approved waiver demonstration believes that the FFPSA provisions are inconsistent with the agency's demonstration, the agency may submit a letter the appropriate CB Regional Program Manager (Attachment A) explaining the conflict and requesting a delay.

4. Delay for Indian tribes, tribal organizations and consortiums**:**

- Delay is permitted when HHS determines that an Indian tribe, tribal organization, or consortium with a title IV-E plan under section 479B of the Act, requires additional time as necessary to comply with section 471(a)(36) of the Act (model licensing standards for foster family homes).

  INSTRUCTION: Tribal title IV-E agencies that require additional time in order to comply with section 471(a)(36) of the Act must submit the Request for Delay (Attachment C).

Note: To complete the plan amendments, the title IV-E agency must: 1) submit Attachment D and record the applicable statutory, regulatory and/or policy references and citations for the affected federal requirement or, alternatively, submit the same information as described here in its own format; 2) submit copies of referenced material noting the specific section of the material with page numbers, highlighting or other means, to document compliance for any cited statute, regulation, policy and/or procedure; and 3) submit the plan and accompanying documentation electronically or on a compact disk or USB flash drive. A title IV-E agency may not substitute a hyperlink *instead* of providing paper or electronic documents for its Pre-Print submission. If the title IV-E agency is unable to submit electronic signatures for purposes of the certification, it may submit the appropriate pages with original signatures.

INQUIRIES TO: Children's Bureau Regional Program Managers (Attachment A)

[1] All title IV-E waivers are required by law to terminate no later than September 30, 2019.

/s/

Jerry Milner
Acting Commissioner, Administration on Children, Youth and Families

Attachments:
A – Children's Bureau Regional Program Managers
B – Certification of Required Legislation
C – Request for Delay
D – Title IV-E Plan Pre-Print (including Pre-Print Attachments I –XI)