

**County of Orange Social Services Agency
Family Self-Sufficiency/Foster Care Program**

Program/Area: Foster Care

Title: Determination of Federal Aid to Families with Dependent Children - Foster Care Eligibility (AFDC-FC)

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PURPOSE

The purpose of this policy is to provide guidelines for determining Federal (Title IV-E) Aid to Families with Dependent Children – Foster Care (AFDC-FC) eligibility for children who are placed in out of home care. Out-of-home care providers receive cash and Medi-Cal benefits for children placed in Foster Care by Children & Family Services (CFS) or the Probation Department.

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BACKGROUND

To be eligible under the Federal AFDC-FC program, a child must be linked to the AFDC program during the month in which a petition to remove a child from his/her parent(s) or relative's home is filed in the juvenile court.

POLICY

Eligibility for Title IV-E is based on AFDC requirements that were in effect on July 16, 1996. Eligibility criteria must be met in the month that the petition is filed or the voluntary placement agreement signed but prior to the child's removal

from the home. Federal eligibility is not affected by the parent's exclusion from the non-assistance unit by choice or regulation, incarceration/institutionalization or failure to cooperate. Eligibility prerequisites for Federal AFDC-FC include linkage requirements, deprivation, income, property, court requirements and placement in an eligible facility.

DEFINITIONS

Assistance Unit (AU): A group of people that consist of a child, sibling and/or half-sibling, and parents/step-parents living in the same home whose income must be considered when determining Foster Care eligibility.

Authority for Placement: The legal basis under which a child is residing in foster care. The removal of the child from the home of the parent or relative must be the result of a court order or by voluntary placement agreement.

Deprivation: Occurs when either parent is deceased, incapacitated, absent from the household, or the Primary Wage Earner in a two parent family is underemployed or unemployed.

Home of Removal: The home identified in the court order as the home from which the child was removed.

In-Kind Income (Earned): The assistance unit (AU) receives something tangible, other than cash, for performing a service.

Legal/Constructive Removal: Occurs when a child is living with a third party relative who is not involved in the allegations of abuse and/or neglect and the agency has obtained custody of the child, but did not physically remove the child from the home of the relative. This home is considered the removal home.

Month of Petition: The month in which a Petition was filed requesting that the child be legally removed from the home of the parent or guardian.

Personal Property: Movable property such as accessible cash and securities, vehicles, boats, campers, and trailers.

Petition: The Petition is a legal document detailing the allegations of abuse and/or neglect that is required to begin court proceedings to establish dependency.

Physical Removal: Occurs when a child is removed from the custody of the alleged perpetrator or offender.

Preponderance of Evidence Model (POEM): A method of establishing a child's AFDC linkage in the month of removal using all verification sources available to determine that linkage and all eligibility requirements were met.

Principal Wage Earner (PWE): The PWE is the parent who has earned the most money in the last 24 months prior to the month of petition.

Protective Custody Warrant (PCW): A PCW is a court order authorizing the removal of a child from the physical custody of the parent/guardian and it is considered the first order pertaining to the removal of the child from the home.

Real Property: Available immovable property such as land and improvements includes homes, trees, fences, buildings, which reside on the land.

Relative: Having any relation by blood, marriage or adoption within the fifth degree of kinship to the dependent child.

AFDC LINKAGE REQUIREMENTS

A child must meet the AFDC linkage requirements, as in effect on July 16, 1996, in the month that a petition to remove a child from his/her parent's or relative's home is filed in the juvenile court. Linkage may only be based on a physical removal that is the result of either a court order or a voluntary agreement. The home from which the child was physically removed must be identified by the court order as the home of removal. To meet the linkage requirements, one of the following conditions must exist during the month of petition:

1. The child was living in the home of the parent or relative from whom removed in the month of petition and was eligible for, and received AFDC, or
2. The child was living in the home of the parent or relative from whom removed in the month of petition

- and would have been eligible for AFDC had an application been made (POEM determination), or
3. The child was living in the home of the parent or relative from whom removed within any of the previous six months prior to the month of petition and would have been eligible for AFDC had an application been made in the month of petition (POEM determination)

Note: If there is no linkage, there is no federal eligibility for the case.

DEPRIVATION

There are four types of deprivation: absence, death, incapacity, and unemployed/underemployed. All types of deprivation should be considered; however, unemployed/underemployed deprivation should not be selected if the child is eligible under another federal deprivation (absence, death, or incapacity).

The child is considered deprived of parental support or care by:

1. Absence of a parent

- One or both parents are not living with child at time of removal

2. Death of a parent

- Either parent is deceased
- Automatic deprivation exists when a parent is deceased; Refer to Social Security Benefits for Foster Care Children Processing Guide

3. Physical and/or mental incapacity of a parent

- Either parent is physically or mentally incapacitated
- Deprivation is established if the parent receives Supplemental Security Income (SSI), Disability Insurance Benefits (DIB), or Retirement, Survivors, and Disability Insurance (RSDI). Must verify benefits through the Income Eligibility Verification System (IEVS).
- If parent is not receiving any disability benefits, information to substantiate the determination of incapacity must be obtained.

4. Unemployed/Underemployed parent

- The principal wage earner is unemployed/underemployed

Once deprivation is established, proceed to income evaluation

Note: If there is no deprivation in the month of petition, there is no federal eligibility for the case.

DEPRIVATION DUE TO THE UNEMPLOYMENT/ UNDEREMPLOYMENT OF THE PRINCIPAL WAGE EARNER (PWE)

The following provisions are to be applied to determine if U-Parent deprivation exists.

A child is deprived of parental care in a two-parent family when the family's Principal Wage Earner (PWE) is unemployed/ underemployed. The PWE in a two-parent household must have been employed in the past and have a connection with the work force by receiving or being eligible to receive unemployment insurance benefits OR having six or more quarters of work in any 13-calendar-quarter period.

Unemployment/underemployment of the PWE in a two-parent family will be evaluated as follows:

- Determine who the PWE is
 - The PWE is the parent earning the most money in the twenty-four calendar months preceding the month of petition. The earnings of both parents are considered during the twenty-four-month period; if both parents earned exactly the same amount or earned no income during the twenty-four calendar months prior to the month of petition, eligibility staff will designate the PWE.
 - Confirm that the 100-hour rule has been met by the PWE.
 - Assure the PWE did not work 100 hours or more in the last 30 days prior to month of petition.

- If it is determined that the PWE did work over 100 hours, there is no unemployment deprivation.
 - Confirm the PWE has not refused, without good cause, an offer of employment or training within the thirty calendar days prior to the month of petition
 - Confirm the PWE is not unemployed because of participation in a labor dispute.
- Evaluate connection to the work force.
 - The PWE connection to the work force can be determined as follows:
 - Eligibility to Unemployment Insurance Benefits (UIB). Connection to the work force is established by the PWE receiving or being eligible to UIB. Once established, proceed to income evaluation.

Or

- PWE was employed in at least six calendar quarters within any thirteen-calendar quarter period. There are four calendar quarters in a year:
 - 1st quarter - January through March;
 - 2nd quarter -April through June;
 - 3rd quarter -July through September;
 - 4th quarter - October through December.
- To identify the thirteen-calendar quarter period, identify the quarter in which the petition was filed or the voluntary placement agreement was signed and count the 16 quarters prior to that quarter. Refer to [WT 55 - U-Parent Deprivation Supporting Document for POEM](#)
- Employment is earning at least fifty dollars (\$50) in a calendar quarter.
- Participation in a community or work program leading to employment can be substituted for four of the six calendar quarters of work.

Once established, proceed to income evaluation.

INCOME

Income is any cash or in-kind benefit which is available to the AU. Income must be evaluated for the month of removal for the following household members:

- Parents and step-parents
 - Income of an alleged father who was declared by the court to be the presumed natural father shall be included in the budget computation for Foster Care eligibility purposes if he was living in the home at the time of removal.
 - If the case is determined non-federally eligible due to the alleged father being in the home and at a later time information of the biological father becomes available, the case may be reevaluated for federal eligibility.
- All children living in the home
- Deemed income from an unqualified alien step-parent
 - The income from the ineligible undocumented noncitizen parent is treated as deemed income and is available to the AU.
 - To deem the excluded person's income, the AFDC MBSAC differential must be used to determine the excluded person's gross income.
- In-kind income from a Non-AU member

Evaluate the following income:

- Earned income/Earned In-Kind
- Disability-based income such as DIB and Temporary Worker's compensation benefits
- Unearned income
- Social Security Benefits
- Unemployment Insurance Benefits (UIB)
- Permanent Worker's Compensation
- Unearned Income In-Kind
- Veterans Assistance (VA) Benefits
- Child support (Direct and CSS)

INCOME TEST FOR FEDERAL ELIGIBILITY

Must pass two income tests, the 185% MBSAC Income Test and the Financial Eligibility Test, to be federally eligible.

1. 185% MBSAC Income Test

- Must evaluate how much income the family had in the petition/removal month.
- Once income is determined, must apply the 185% of MBSAC Income test using the 1996 AFDC Minimum Basic Standard of Adequate Care (MBSAC).
 - Refer to [WT 20 - MBSAC Chart](#)
- Do not apply any earned income deductions.
- If the case is eligible using the 185% test, must complete the Financial Eligibility Test (FET).

2. Financial Eligibility Test (FET)

- Using MBSAC standards apply the income to the FET.
- Earned income
 - Allow a \$90 Work Related Expense (WRE) per eligible adult in household.
 - Allow \$30 and 1/3 deduction if household was receiving CalWORKs/TANF benefits in any of the last four months prior to petition/removal.
 - Note: allow WRE and \$30 and 1/3 to all adults with earned income. This also applies to disability based income and Temporary Worker's Compensation payments. Refer to [WT 52 - \\$30 and 1/3 Exemption Calculator](#)

Dependent Care Deduction

- Allow dependent care deductions per child, if applicable.
- Child under 2 years old, allow no more than \$200 deduction.
 - If less is paid, allow actual amount.
- Child over 2 years old, allow no more than \$175 deduction.
- If less is paid, allow actual amount.

Reminders

- Must evaluate all AU members.
 - Include income of a Stepparent
- Document all income on the [AFDC-FG/U Worksheet FC 3A](#).

Lump Sum Income

Income that is not recurring and/or regular in regard to amount or source is evaluated as a Lump Sum. Lump Sum income can be earned or unearned. The type of Lump Sum income will determine how the income is treated.

- Lump Sum income includes retroactive payments from Social Security RSDI, State DIB and cash gifts.
 - Only income received in the month of removal is counted towards determining the gross income of the AU
- Examples of incomes not treated as Lump Sum income are: tax refunds, Earned Income Tax Credit (EITC), and retroactive SSI.

When a Lump Sum income exceeds the minimum basic standard of adequate care (MBSAC), the child would not be eligible to Federal FC.

PROPERTY

There is a \$10,000 personal property limit for AFDC-FC. The real and personal property of all AU members must be evaluated.

Must evaluate the following for the entire AU:

- All bank accounts
- Stocks and bonds
- Life insurance
- 401(k) accounts
- Real and secondary property
- Jewelry
- Livestock
- Tools
- Collectables
- Cash on hand
- Vehicles
 - Determining the value of motor vehicles- Refer to [Kelley Blue Book Method to Determine Vehicle Value](#)

PREPONDERANCE OF EVIDENCE MODEL (POEM)

The County is to use all verification sources available (MEDS, IEVS, EDD, etc.) to determine that linkage and all eligibility requirements are met. Documentation of supporting information for the determination based on POEM is required. When using POEM there can be no substantiated evidence to definitively indicate ineligibility to the AFDC-FC program. The determination of federal eligibility can be based on POEM, based on the available supporting information that indicate the July 16, 1996 AFDC requirements were met.

Examples of documentation that can be used in a POEM determination include but is not limited to the following:

- Court order
- Court Reports
- Statement from a reliable third party
- Senior Social Worker (SSW) statements
- Information from active or discontinued cases from CalWORKs, Medi-Cal, Cal-Fresh and IHSS programs.
- Responsible relative's statements that know the family's situation at the time the child was removed from the home.
- Parental Income and Resource Information Statement (PIR), if available.

Eligibility determinations made based on POEM must be reevaluated at the first annual reinvestigation to ensure the supporting information used to make the determination is accurate.

COURT REQUIREMENTS/ ADOPTIONS AND SAFE FAMILIES ACT (ASFA)

As a condition of federal eligibility additional Title IV-E eligibility requirements must be met, there must be authority for placement, physical removal or legal/constructive removal. The filing of a petition to remove a child from the home begins the dependency or delinquency/wardship proceeding which may lead to the removal of the child from the care and custody of the parent(s) or relative. If the petition is dismissed by the court, no further actions are required to determine eligibility as there is no eligibility to Foster Care if the child remains in the home. If the

allegations stated in the petition can be substantiated, the child is declared a dependent/ward and removed from the home and placed in Foster Care.

Foster Care eligibility determination is based on the situation that occurred in the month the petition was filed which led to the removal and placement of a child in Foster Care. Eligibility determination is a one-time occurrence for any given dependency episode.

For Federal Foster Care eligibility to exist, a child must be legally or constructively removed from the home of the biological, adoptive, or stepparent(s) or related legal guardian. The court must specify the person(s) from whom the child is being removed. A child can only be removed from the parent(s) or a relative.

Initial Court Findings

The following three initial findings and the timelines by which they must be made by the court must be verified prior to issuing Federal AFDC-FC payment:

1. **Contrary to the Welfare:**

The court must make a finding that “continuance in the home would be contrary to the welfare of the minor” or a finding to that effect. Other examples in verbiage include: “there is substantial danger to the welfare of the minor without removing the minor,” or “the welfare of minor requires that custody be taken from parents.”

The finding is typically found in the initial Detention Hearing minute order or on the Protective Custody Warrant (PCW). If there is a PCW, the contrary to welfare finding has to be made or there is no federal eligibility. If there is no PCW, the contrary to welfare finding must be made in the first court order which removes the child from the home. If there is no PCW and the finding is not made in the initial detention hearing minute order, court transcripts can be used for verification that the finding was made. If the finding is made in the court transcripts, the transcripts may be used in lieu of the initial Detention Hearing minute order.

If the contrary to welfare finding is not made in the PCW, the first court order, or court transcripts which removes the

child from the home, federal funding is lost for the entire dependency episode. For State funding, this finding is required but does not need to be made in the first court order.

2. Reasonable Efforts:

The court must make a finding that “reasonable efforts to prevent or eliminate the need for removal of the child from the home” within 60 days from the date the child is removed from the home. If the finding is not made within 60 days, the child is ineligible to federal funding for the duration of that dependency episode.

The court can declare that reasonable efforts to prevent or eliminate the need for removal are NOT required if any of the following reasons exist:

- Parent has been convicted of murder or voluntary manslaughter of another child of the parent; or
- Parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter; or
- Parent has been convicted of felony assault resulting in serious bodily injury to the child or sibling; or
- The parent has subjected the child to aggravated circumstances such as, but not limited to, abandonment, torture, chronic abuse, or sexual abuse; or
- The parental rights of the parent have been involuntarily terminated to a sibling of a child in Foster Care.

If the judge finds that reasonable efforts were not required, a permanency planning hearing must be held within 30 days.

For State funding, this finding must be made prior to issuing Foster Care payment, but does not need to be made within 60 days.

3. Placement and Care:

The court must make a finding that “placement and care” is vested with either county welfare or probation department, as appropriate, or a finding to that effect. Other verbiage

examples include, “temporary placement and care is vested with the county” or “care, custody, and control is vested with the county.”

This finding may be in any court order, but Federal or State Foster Care payment cannot be paid prior to the finding being made.

Continuing Court Order Findings - Federal Cases Only

All ongoing federal cases must continue to meet ASFA regulations by maintaining up-to-date court documents. Refer to [Adoptions and Safe Family Act Court Findings Worksheet, F063-29-38](#) and [Adoptions and Safe Family Act Permanency Planning Hearing Worksheet, F063-29-39](#).

The Date Child Entered Foster Care

The date a child entered foster care is defined as the earlier of the following dates:

1. The date of the first judicial finding that the child has been subjected to child abuse or neglect (generally located in the Jurisdictional/Dispositional hearing minute order).
 - The verbiage of the judicial finding may include but is not limited to “allegations are true by a preponderance of evidence” or “allegation was sustained/substantiated” or a finding to that effect.

Or

2. Sixty days from the date the child is physically removed from the home. The 60-day count starts the last day the child lived with the parent or relative from whom removed.

Example

Child was removed on March 29th, 2019.

At the Jurisdictional/Dispositional Hearing the court made no finding that the child has been subjected to abuse/neglect. Due to the omission of the verbiage, the date child

entered FC is May 28th, 2019 which is 60 days from the date of removal, March 29th.

First Permanency Planning Hearings/Findings

The court must make a finding that the county has made “reasonable efforts to finalize the permanency plan” that is in effect (whether the plan is reunification, adoption, legal guardianship, etc.) within 12 months of the “date the child entered Foster Care.” If this finding is not made timely, the child ceases to be eligible to Federal AFDC-FC at the end of the 12th month after the child entered foster care until the finding is made. Thereafter “reasonable effort to finalize the permanency plan” finding is required every 12 months to maintain federal funding.

Example

Date child entered Foster Care is March 2, 2018

Initial permanency planning hearing/finding was made on May 31, 2019.

In the above example, the case is ineligible to federal funding for the month of April 2019 due to the exhaustion of the 12-month period in March of 2019. The funding stream must be converted from Federal to State for the month of April 2019. Federal funding resumes on May 1st as the finding was made in the month of May 2019. A finding made in any day of the month provides eligibility for the entire month.

Note: If the finding is not found in the minute order, court transcripts can be used to confirm finding was made.

Ongoing Permanency Planning Hearings/Findings

Verification must be on file that the court continues to make a finding that the agency has made “reasonable efforts to finalize the permanency plan” within 12 months from the date of the last permanency planning hearing/findings. If the finding is not made timely, the child ceases to be eligible for federal funding at the end of the 12th month after the last hearing and remains ineligible until the finding is made. In the event the child becomes ineligible to Federal AFDC-FC, convert funding stream to State funding for the

period of ineligibility. Federal AFDC-FC may resume when the finding is made.

Example

Date child entered Foster Care is March 2, 2018.
Initial permanency planning hearing/finding was made on May 31, 2019.
Subsequent permanency planning hearing/finding was made on April 1, 2020.

In the above example, the case is eligible to continued federal funding as the subsequent permanency planning hearing was made within 12 months from the date of the initial permanency planning hearing. If the subsequent permanency planning hearing is made after May 31, 2020, the funding stream must be converted from Federal to State until the finding is made. A finding made in any day of the month provides eligibility for the entire month.

LICENSING

To be eligible to Federal or State AFDC-FC, a child/youth must be placed in an eligible facility that is licensed and/or certified in meeting the licensing/approval standards established by the State.

The following is a list of examples of eligible facilities:

- Resource Family Homes
- Relative
- Non-Relative Extended Family Member (NREFM)
- Foster Home
- Legal Guardian
- Foster Family Agency (FFA)
- Intensive Services Foster Care (ISFC)
- Private/Nonprofit Group Home
- Short Term Residential Therapeutic Program (STRTP)
- Regional Center Home
- Supervised Independent Living Placements (SILP)
- Transitional Housing Program Plus Non Minor Dependent (THP-NMD)
- Transitional Housing Placement Program (THPP)
- Transitional Housing Program-Plus (THP-Plus)

- Any out-of-state placement which meets the licensing requirements of that state and approved by Interstate Compact on the Placement of Children (ICPC)

Prior to issuing Federal or State AFDC-FC payment, verification of the Resource Family Approval Certificate (RFA 05A), License (LIC 203/203A), [Certificate of Approval \(LIC 229\)](#), or the [Approval of Family Caregiver Home \(SOC 815\)](#) from the provider must be on file.

Note: For ISFC placement, Level of Care (LOC) assessment paperwork and rate letter are needed in addition to the FFA license. THPP and THP-Plus placement require certificate of compliance in addition to the FFA license.

PROCEDURE

[Intake Foster Care Eligibility Technician \(IFCET\) Procedure 606.4](#)

ATTACHMENTS

- License (LIC 203/203A)
 - Certificate of Approval ([LIC 229](#))
 - Approval of Family Caregiver Home ([SOC 815](#))
 - Resource Family Approval Certificate (RFA 05A)
 - Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC), [FC 2](#)
 - Determination of Federal AFDC-FC Eligibility, [FC 3](#)
 - AFDC-FG/U Worksheet [FC 3A](#)
 - [MBSAC Chart \(WT 20\)](#)
 - [Kelley Blue Book Method to Determine Vehicle Value](#)
 - Adoptions and Safe Family Act Court Findings Worksheet, [F063-29-38](#)
 - Adoptions and Safe Family Act Permanency Planning Hearing Worksheet, [F063-29-39](#)
 - [Parental Income and Resource Information Statement F063-29-33](#)
 - Important Notice- Foster Care Cash Aid Lump Sum Income Rule to NRLG, ([F063-29-93](#))
 - [\\$30 & 1/3 Exemption Calculator WT 52](#)
 - [U-Parent Deprivation Supporting Document for POEM WT 55](#)
 - [Intake Foster Care Eligibility Technician \(IFCET\) Procedure 606.4](#)
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REFERENCES

- ACL 94-15
- ACL 94-75
- ACL 96-32
- ACL 98-01
- ACL 98-49
- ACL 01-33
- ACL 02-45
- ACL 05-20
- ACL 12-44
- ACIN I-40-09
- ACWDL 97-17
- ACWDL 97-37

[Eligibility and Assistance Standards \(EAS\) Manual Section 45-200](#)

OCCSSA