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**SECTION 8  
SUBSIDY**

OASIS: All subsidy information must be entered into OASIS. The path is: Workload, Adopt, Subsidy.

Subsidized adoption, also called adoption assistance, is a means of providing a money payment and/or services to adoptive parent(s) on behalf of a child with special needs. The purpose of subsidy is to facilitate the adoption of children who are considered hard to place because they have special needs and few families are available. Without subsidy, these children are likely to remain in long-term foster care.

The child is the client and eligibility for subsidy is based on the needs of the child, not on the financial circumstances of the adoptive family. An adoption assistance agreement shall be executed by the agency or child placing agency for all children who have been determined to have special needs.

Adoption assistance should be a partnership between the agency and the adoptive parents. The adoptive parents are responsible for the routine costs of raising a child and the agency helps the adoptive parents in meeting the child's special needs. Adoption assistance payments should relate directly to the special needs of the child.

Most children must be determined eligible for subsidy before legal adoption. For some children, eligibility can be established after the adoption (see 8.J).

There are 9 steps in the subsidy process:

**8.A. Step one - Determining The Child's Eligibility for Subsidy before Legal Adoption****8.A.1 Basic Eligibility**

The child must be:

- 8.A.1.1 under 18 years of age;
- 8.A.1.2 in the custody of a local board of public welfare/social services or a licensed, private child placing agency at the time the petition for adoption is filed; and

8.A.1.3 placed by the agency with the prospective adoptive family for the purpose of adoption.

A.1.3.1 There are exceptions to basic subsidy eligibility criterion 8.A.1.2 and 8.A.1.3, requiring the child to be in agency custody and placed by the agency with the prospective adoptive family.

- (i) The first exception is when a foster parent with whom the child has resided for 18 months files a petition for adoption under Section 63.2-1229 of the Code of Virginia. With this exception, the child must still meet the definition of special needs.
- (ii) The second exception is when the child is eligible for SSI at the time the adoption petition is filed.

In (i) and (ii) above, adoption assistance payments are initiated upon final order of adoption and are retroactive to the date the petition was filed. An Adoptive Home Placement Agreement is not required.

A.1.3.2 A copy of the Adoptive Home Placement Agreement signed by the agency and prospective adoptive parent(s) is evidence that custody is with a local board of public welfare/social services or licensed private agency at the time the petition is filed and that the child was placed by the agency with the prospective adoptive family.

[Section 63.2-1229](#), *Code of Virginia*. When a foster parent who has a child placed in the foster parents' home...desires to adopt the child and (i) the child has resided in the home of such foster parent continuously for at least eighteen months and (ii) the birth parents' rights to the child have been terminated, the court shall accept the petition filed by the foster parent and shall order a thorough investigation of the matter.....

## 8.A.2 Special Needs

A special needs child is one who:

- 8.A.2.1 is legally free for adoption through the termination of all parental rights;

Title IV-E, Section 473 (c) (1) of the Social Security Act states that a child shall not be considered a child with special needs unless the State has determined that the child cannot or should not be returned to the home of his parents; and.....

[Section 63.2-1300](#), *Code of Virginia*. A "child with special needs" shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto....or (ii) in the custody of a licensed child-placing agency.....

- 8.A.2.2 has at least one of the following individual characteristics that make the child hard to place:

- A.2.2.1 a physical, mental, or emotional disability existing before legal adoption;
- A.2.2.2 a hereditary, congenital problem or birth injury that could lead to a future disability;
- A.2.2.3 being six years of age or older;
- A.2.2.4 being a member of a minority or mixed racial heritage;
- A.2.2.5 being a member of a sibling group that is ready for placement at the same time and that should not be separated; or
- A.2.2.6 having significant emotional ties with the foster parents with whom the child has resided for at least 12 months, when the adoption is in the best interest of the child and when the subsidy

is necessary to consummate the adoption by these foster parents.

Use the above criteria only when one of the other individual characteristics does not apply.

A child whose only individual characteristic is emotional ties must be provided with a state subsidy agreement, rather than a IV-E subsidy agreement, even if child is IV-E eligible.

Title IV-E, Section 473 (c) (2) of the Social Security Act. A child shall not be considered a child with special needs unless... the state has first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.....

[Section 63.2-1300](#), *Code of Virginia*. "Child with special needs" shall mean any child....for whom it has been determined that it is unlikely that the child will be adopted within a reasonable period of time due to one or more factors including, but not limited to:

1. Physical, mental or emotional condition existing prior to adoption;
2. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability; or
3. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings....

8.A.2.3 has had reasonable efforts made to first place the child with an appropriate adoptive parent(s) without providing subsidy. A reasonable effort has been made when:

A.2.3.1 local recruitment efforts have been undertaken and documented; or

A.2.3.2 requirements for registration with AREVA have been met and the child has been featured in the AREVA photo-listing for a period of 30 days or other special recruitment efforts have been

undertaken by AREVA and an appropriate family has not been identified.

- 8.A.2.4 Reasonable effort shall be made except when it would be against the best interest of the child because of such factors as the existence of significant emotional ties with the foster parents;

A child who meets the conditions in 8.A is a child with special needs. An adoption assistance agreement must be approved on behalf of the child. The prospective adoptive family must be informed of the child's eligibility and of the types of payments and services for which the child is eligible.

In cases where there is a choice between a family that can accept the child without subsidy and a family that needs subsidy, the guiding principle shall be the best interest of the child. The family best able to meet the needs of the child shall be the family of choice.

Title IV-E, Section 473 (c) (2), of the Social Security Act. A child shall not be considered a child with special needs unless.....(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance....

[Section 63.2-1301](#), Code of Virginia. Such subsidy payments shall be made, however, only after a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without the provision of adoption assistance...except in cases where the child has developed significant emotional ties with the prospective adoptive parents while in the care of such parents as a foster child.

## 8.B Step two - Determining The Type Of Agreement For Which The Child Is Eligible

After a child has been determined eligible for subsidy, the next step is to determine the type of subsidy for which the child will be eligible. There are three types of subsidy agreements: a IV-E subsidy, a state subsidy, and a conditional state subsidy.

## 8.B.1 A IV-E Subsidy

IV-E subsidies are used for children whose foster care **maintenance** expenses are paid from federal and state funds. These include children who are in IV-E (AFDC-FC) foster care and children who are eligible for Supplemental Security Income benefits (SSI). A IV-E subsidy agreement shall be executed for any child who is a special needs child and meets eligibility requirements for AFDC or SSI. When a child is eligible for SSI and meets the special needs criteria set forth in 8.A.2, the child is eligible for IV-E subsidy regardless of child's foster care funding category. Foster care requirements related to reasonable efforts to prevent removal and court order language indicating that the removal was in the best interests of the child do not apply.

8.B.1.1 To be eligible for a IV-E subsidy, the child must meet AFDC eligibility requirements as in effect in July 1996 at the time of entry into care. The child must also meet AFDC-FC or SSI eligibility requirements at the time the petition for adoption is filed. Eligibility for AFDC-FC must be documented in the case record at the time of entry into foster care and when the petition is filed. Eligibility for SSI must be documented in the case record at the time the petition for adoption is filed.

8.B.1.2 Medicaid must be provided for children receiving a IV-E subsidy for as long as the child has an adoption assistance agreement in effect.

Title IV-E, Section 473 (a), (5), of the Social Security Act. For purposes of title XIX, any child with respect to whom adoption assistance payments are made under this section... shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

8.B.1.3 A child may continue to receive SSI payments after adoption if the income of the adoptive family meets the level required for SSI. However, when the family's income is sufficiently low to meet requirements for continuing SSI payments, SSI will deduct the amount of the adoption assistance maintenance payment dollar for dollar from the SSI payment. The agency, in consultation with the adoptive family, should determine which payment source (adoption assistance or SSI) will provide the highest benefit for the child and family.

8.B.1.4 If a IV-E child is placed in or moves to another state, the child is eligible for Medicaid in the new state of residence (See 8.K.).

8.B.1.5 **Adoption assistance** payment and services may begin as soon as the adoptive home placement agreement and adoption assistance agreement are signed, and the child is placed in the adoptive home. However, if the adoption is not finalized within 12 months of placement in the adoptive home, the agency must suspend adoption assistance payments and provide foster care payments until finalization of the adoption, with no gaps in payment to the family. Exceptions may apply in some situations. A request for a waiver to continue the subsidy payment must be submitted in writing to the appropriate Regional Program Specialist.

B.1.5.1 When payments and services begin before entry of the final order of adoption, the child's continuing eligibility for IV-E must be established at the time the petition for adoption is filed. When the AFDC-FC case is closed, the service worker determines continuing eligibility by looking at the child's income and resources:

(i) If the child's income and resources have not changed, the child continues to be eligible. The service worker documents in writing that the child's income and resources have not changed since the last eligibility re-determination.

(ii) If the child's income and resources have changed, the service worker must consult with the eligibility worker to determine whether the change results in ineligibility for IV-E. If the change does not make the child ineligible, document this in writing.

(iii) Before finalization of the adoption, the documentation is maintained in the child's foster care record. After finalization the

documentation is maintained in the child's subsidy record.

Title IV-E, Section 473 (a) (45) of the Social Security Act. ...individuals with whom a child (who has been determined by the state...to be a child with special needs) is placed for adoption...shall be eligible for adoption assistance payments ...during the period of the placement on the same terms ...as if such individuals had adopted such child.

- 8.B.1.6 When an adoptive family indicates that they do not want a payment or services, including Medicaid, a IV-E subsidy agreement must still be entered into with the family. In this case, the agreement serves as a mechanism that will allow the family to receive payments and services if the need arises at a later date. The agreement must indicate that the child is eligible for medical services under Title XIX. An annual affidavit is required.

The case must be entered into OASIS and the annual affidavit is required. If the family declines to sign an agreement, they must sign a statement that the benefits of Title IV-E adoption assistance have been fully explained to them.

45 CFR 1356.40 (b) requires that the adoption assistance agreement be entered into prior to the entry of a final order of adoption.

- 8.B.1.7 The source of funding for IV-E maintenance payments is Title IV-E of the Social Security Act.
- 8.B.1.8 The agency will be reimbursed 100% of all maintenance and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

## 8.B.2 State Subsidies

State subsidies are used for children whose foster care expenses are paid from CSA pool funds.

Medicaid may be continued after adoption for some children receiving a state subsidy.

8.B.2.1 In order for Medicaid to be continued, the following conditions must be met:

B.2.1.1 The child must have a special medical or rehabilitative need.

B.2.1.2 There must be an adoption assistance agreement in effect.

B.2.1.3 The adoption assistance agreement must identify the special medical need.

B.2.1.4 The child must have been eligible for Medicaid prior to the adoption assistance agreement being entered into.

B.2.1.5 The child's own income and resources cannot exceed the AFDC or Medicaid income limit for a single person.

B.2.1.6 There must be documentation in the subsidy record of the child's special medical or rehabilitative need. The documentation must be from a qualified professional such as a physician, psychiatrist, psychologist, or licensed therapist.

8.B.2.2 Medical and rehabilitative needs for which Medicaid can be continued after adoption include, but are not limited to:

B.2.2.1 Diagnosed physical, mental, and emotional disabilities.

B.2.2.2 Diagnosed congenital problems and birth injuries.

- B.2.2.3 Diagnosed medical conditions that do not require immediate treatment, such as sickle-cell anemia.
  - B.2.2.4 Medical or emotional conditions requiring regular medication, such as epilepsy, allergies, attention deficit disorders.
  - B.2.2.5 Severe visual and dental problems requiring non-routine medical treatment.
- 8.B.2.3 Children for whom services are requested after final order of adoption are not eligible for Medicaid through adoption assistance unless a conditional adoption assistance agreement was signed before final order of adoption.
- 8.B.2.4 Payment and services may begin as soon as the adoption assistance agreement and adoptive home placement agreement are signed, and the child is placed in the adoptive home.
- 8.B.2.5 The source of funding for a state subsidy is state funds.
- 8.B.2.6 The agency will be reimbursed 100% of all maintenance, special services including those made for IV-E children, and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

### 8.B.3 Conditional Subsidies

A conditional subsidy agreement is used when payments and services are not needed at the time of placement, but may be needed later.

[22VAC 40-260-20](#) of the Virginia Administrative Code of the Virginia Administrative Code provides that a conditional subsidy shall be provided for any child with special needs, whose foster care expenses are paid from Comprehensive Services Act pool funds, when payments and services are not needed at the time of the placements, but may be needed later.

- 8.B.3.1 A conditional subsidy is granted at the request of the adoptive parents when a child:
- B.3.1.1 has a physical, mental or emotional disability present at the time of placement;
  - B.3.1.2 has a hereditary tendency, congenital problem or birth injury;
  - B.3.1.3 could develop emotional or other problems resulting from separation from birth parents, placement in foster care or adoption; or
  - B.3.1.4 may need help later with daily living expenses such as food, clothing and shelter.
- 8.B.3.2 In addition to the factors listed in 8.B.3.1., a conditional subsidy is also granted at the request of the adoptive parents when the child has prenatal drug exposure and when the birth parents' medical history is unknown.
- 8.B.3.3 A conditional subsidy does not involve money payments or services. It is an agreement that allows the adoptive parent(s) to apply for a state subsidy after the final order.
- 8.B.3.4 A conditional subsidy commits the agency to providing a state subsidy when the adoptive parent(s) apply, if it is determined that the need is related to one of the conditions described in A above.
- 8.B.3.5 A conditional subsidy does not require an annual affidavit.
- 8.B.3.6 Conditional subsidies are not used for children who are eligible for IV-E subsidy. For IV-E children, an adoption assistance agreement must be entered into to show the child's continuing eligibility for Medicaid. If a family indicates

they do not want these services, it is their option as to whether they use the services. However, the agreement must be signed. This serves as a conditional agreement for IV-E children.

#### 8.B.4 International adoptions

Children who are adopted abroad by U.S. citizens or who are brought into the U.S from another country for the purpose of adoption are not eligible for adoption assistance.

#### 8.C. Step three - Determining The Type Of Payment To Be Made

Adoption assistance payments must be negotiated with the adoptive family, taking into consideration the needs of the child and the circumstances of the family. In considering the family's circumstances, income shall not be the sole factor. Expenses, the need to save money for college educations of children already in the family, the number of dependents, and other circumstances of the family must also be considered. Family and community resources must also be explored to help defray the costs of adoption assistance. Adoption Assistance payment are not intended to cover 100% of the cost of raising a child but are to supplement costs related to the special needs of the child to encourage permanent placements for children.

Title IV-E, Section 473(a)(3), of the Social Security Act. The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the state...which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted...

The primary source of payment is always the family's private health insurance, if available.

[Section 38.2-3411.2A](#), Code of Virginia...each insurer that offers coverage for a family member of the insured...shall...also provide that the accident and sickness insurance benefits applicable for children shall be payable with respect to adopted children ...  
C. An adopted child shall be eligible for the coverage...from the date of adoptive ...placement....  
E. No insurer...shall restrict coverage for any dependent child adopted or placed for adoption solely because of a preexisting condition of such child ...

The Employer Retirement Income Security Act of 1974 (29 U.S.C. 1169 (c))...Additional Standards for Group Health Plans Section 609. (c) (1) Coverage effective upon placement for adoption. In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, such plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply in the case of dependent children who are natural children of participants...irrespective of whether the adoption has become final. (2) Restrictions Based on Preexisting Conditions at the Time of Placement for Adoption Prohibited. A group health plan may not restrict coverage...of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption solely on the basis of a preexisting condition of such a child at the time that such child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant...is eligible for coverage under the plan.

Adoptive families need to ensure that the health care coverage they have is a family policy. If the policy does not provide family coverage, the above laws do not require a third party insurance provider to cover the child.

There are three types of payments which may be made on behalf of a child who is eligible for subsidy; maintenance, special service, and one time only payments for non-recurring expenses. One or more types may be used for the same child. The amount of payments made and services provided shall not exceed what would be paid or provided had the child remained in foster care.

Title IV-E, Section 473(a)(3)...in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Retroactive maintenance and special service payments may be made only back to the date of the Application for Adoption Assistance.

A description of the types of payments follows:

#### 8.C.1 Maintenance Payments

A maintenance payment is used to help with the child's daily living expenses.

8.C.1.1 A maintenance payment shall be provided for all children who are eligible for subsidy, unless the adoptive parent(s) indicate that a payment is not wanted or it is determined

through negotiation that a maintenance payment is not needed.

- 8.C.1.2 Maintenance payments are intended to cover the costs of food, clothing, shelter, daily supervision, school supplies and a child's personal essentials.
- 8.C.1.3 Maintenance payments shall not be reduced lower than the amount specified in the initial subsidy agreement, unless requested by the adoptive parents.
- 8.C.1.4 The Virginia Administrative Code [22 VAC 40-260-20](#) provides that increases in the amount of payment shall be made when:
- C.1.4.1 a child who is receiving the maximum allowable payment:
- (i) reaches a higher age grouping as specified in foster care policy for maintenance payments; and
- (ii) statewide increases are approved for regular foster care payments.
- C.1.4.2 The agency must notify the adoptive parents in writing of all increases in maintenance payments.
- 8.C.1.5 Payments shall be made directly to the adoptive parent(s) on a monthly basis.

[Section 63.2-1302](#), *Code of Virginia*. A. Subsidy payments shall include:  
1. A maintenance subsidy which shall be payable monthly to provide for the support and care of the child; however, the maintenance subsidy shall not exceed the maximum regular foster care payment that would otherwise be made for the child...

[Section 63.2-1302, B](#), *Code of Virginia*. Maintenance subsidy payments made pursuant to this section shall not be reduced unless the circumstances of the child or adoptive parents have changed significantly in relation to the terms of the subsidy agreement.

### 8.C.2 Special Service Payments

A special service payment is used to help meeting the child's physical, mental, emotional, or dental needs. In most cases, the payment shall be related directly to the child's special need(s). There may be times, however, when the financial circumstances of the adoptive family are such that a special service payment will be needed for routine expenses of child-rearing such as day care. These situations should be the exception rather than the rule and must be decided on an individual case basis.

The special service payment should be used only when it is determined that the adoptive family's private insurance and Medicaid do not cover the expense.

- 8.C.2.1 Special service payments are used to provide services that would have been provided had the child remained in foster care.

[22 VAC 40-260-20](#) of the Virginia Administrative Code states that expenses that may be paid include, but are not limited to:

- C.2.1.1 medical, surgical, or dental care;
- C.2.1.2 equipment such as prosthetics, braces, crutches, hearing aids, eyeglasses, etc;
- C.2.1.3 individual tutoring or remedial educational sessions, books or equipment;
- C.2.1.4 psychological and psychiatric evaluations and treatment;
- C.2.1.5 speech, physical, and occupational therapy; and
- C.2.1.6 premiums for a major medical insurance policy for a child, if the child is not covered by a family policy;
- C.2.1.7 Specialized care payments for care provided directly to the child by the adoptive parents. These are services provided by the parent to meet the special needs of the child. These payments are distinct from basic maintenance and supervision. The parents shall be qualified by experience or specific training to

perform such services. This item may be paid in addition to a maintenance payment.

An example is payment to an adoptive parent for providing physical therapy to a child with cerebral palsy. Another example is when the child's behavior is so extreme the adoptive parents must have special training or above normal supervision is required.

Adoptive parents who are trained as therapeutic foster parents will not receive additional payment for providing therapeutic services unless such services are needed based on a diagnosis from a physician, therapist or other qualified professional, and are being provided for the child. When a child is placed with adoptive parents who are trained therapeutic foster parents and the child does not need the therapeutic services of the adoptive parents, the adoptive parents will receive the basic maintenance rate.

Specialized care payments to adoptive parents will not include payment for case management services. However, case management can be purchased with a special service payment.

8.C.2.2 Special service payments may also be used for respite care when the child's condition requires extreme difficulty of care and other resources are not available. Special service payments may also be used for summer camps that are treatment oriented.

8.C.2.3 Specialized care payments may be used for children eligible for Title IV-E Adoption Assistance to supplement expenses not covered by Medicaid or when Medicaid does not provide adequate coverage. Although Medicaid must be extended for children receiving a IV-E subsidy, there may be times when Medicaid does not cover all needed services. When at all possible, Medicaid should be used for IV-E children instead of special service payments. When special service payments are made for IV-E children, the source of funding is state funds.

8.C.2.4 Special service payments may be made directly to the providers of service or through the adoptive parents. Providers must submit a

bill before they can be paid. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the service was rendered.

8.C.2.5 If a provider is to be paid directly by the agency, the provider must be approved according to requirements for purchase of service specified by the department of social services. If the provider is not listed on the Service Fee Directory, a contract must be drawn up. The rate of payment shall not exceed the prevailing community rate.

8.C.2.6 Special service payments may be used to pay for residential treatment.

C.2.6.1 Payments for residential treatment may be made only when the plan for placement has been reviewed and recommended by the FAPT (Family Assessment and Planning Team) in the locality where the child and family reside. Documentation that less restrictive alternatives have been assessed and ruled out must be maintained in the subsidy record.

(i) The agency in the family's residence locality is responsible for presenting the case to their FAPT.

(ii) The locality where the family resides is responsible for providing case management services for as long as the case is before the FAPT.

(iii) Once the FAPT team has made their recommendation about the need for residential treatment services and determined that there are no alternative community resources, the case does not have to be brought back before the FAPT team for additional reviews or decision-making.

C.2.6.2 Payments for residential treatment shall be made only when the plan for the child is to return to the adoptive home. Exceptions apply only when the

- child's condition prohibits return to the adoptive home and the adoptive parents demonstrate their continued involvement in the life of the child.
- C.2.6.3 The adoptive parents must show their continued commitment to the child by participating in service planning, supporting the child emotionally, and visiting, when appropriate.
- C.2.6.4 Payments for residential treatment may not be made for longer than 12 months, unless a review of the child's situation by the adoption assistance agency demonstrates the need for additional treatment. When payments are made for longer than 12 months, the adoption assistance agency shall review the case every six months thereafter to assess the continuing need for treatment.
- C.2.6.5 When the placement is a non-educational placement and the child does not require special education, the adoption assistance agency is responsible for the costs of placement.
- C.2.6.6 When the placement is a non-educational placement and the child is eligible for special education, CSA funds are used to pay the portion of costs related to special education. The CSA responsible for payment is the one in the locality where the child and family have legal residence. Maintenance and other service costs will be the responsibility of the agency which entered into the adoption assistance agreement with the family.
- C.2.6.7 If the placement is a result of an Individualized Education Program (IEP), all costs will come from the state pool allocation of the Community Policy and Management Team where the child and family have legal residence.
- C.2.6.8 The adoptive parent(s) have the final authority over whether to place the child in a residential facility. If FAPT has not recommended residential treatment,

the adoptive parent(s) is responsible for the total costs of the placement.

C.2.6.9 In determining the amount, negotiations are conducted with the adoptive parent(s) in the same manner as any other special service payment.

8.C.2.7 Medicaid may be used for residential treatment

Medicaid may cover residential treatment for children receiving adoption subsidy who are enrolled in Medicaid, when the child meets Medicaid medical necessity criteria and is in a Medicaid-enrolled facility. All Medicaid pre-authorization requirements must be met, which include an independent team certification of medical necessity. For non-CSA children, including children who are receiving adoption subsidy, the Community Services Board in the adoptive family's residence locality provides the independent team certification. In cases where the adoptive family does not reside in locality providing the subsidy, the adoptive family's residence locality and adoption assistance locality should work together with the adoptive parents to obtain the pre-admission screening and ensure that all required background information is available to meet Medicaid requirements.

8.C.2.8 Continuing subsidy when child is in residential

Adoption assistance agreements cannot be terminated prior to a child's 18<sup>th</sup> birthday without the consent of the adoptive parents unless the adoptive parents no longer provide financial support for the child, no longer have legal responsibility for the child (parental rights terminated), or the condition for which the child receives subsidy no longer exists. When a special service payment is being used to pay for a child's residential treatment, and it is determined that the adoptive parents continue to financially provide for the child, the adoptive parents may continue to receive a portion of the monthly maintenance subsidy. In these cases, the agency would continue to provide all but the room and board portion of the maintenance payment to the adoptive parents.

[Section 63.2-1302](#), *Code of Virginia*. Subsidy payments shall include:... a special need subsidy to provide special services to the child which the adoptive parents cannot afford and which are not covered by insurance or otherwise, including, but not limited to:

- a. Medical, surgical and dental care;
- b. Hospitalization;
- c. Legal services in effecting adoption;
- d. Individual remedial educational services;
- e. Psychological and psychiatric treatment;
- f. Speech and physical therapy;
- g. Special services, equipment, treatment and training for physical and mental handicaps; and
- h. Cost of adoptive home study and placement by a child-placing agency other than the local board.

### 8.C.3 One-time Only Payments For Non-Recurring Expenses

Adoptive parents shall be reimbursed, upon request, for the non-recurring expenses of adopting a special needs child.

#### 8.C.3.1 Non-recurring expenses shall include:

- C.3.1.1 Reasonable and necessary fees of adoption agencies. Workers should share with family what is reasonable and customary relative to fees for their community, and clarify that payment for attorney fees may not be covered in full, if the amount exceeds what is reasonable and customary for their community.
- C.3.1.2 Transportation and other expenses incurred by adoptive parents related to placement of the child. Expenses may be paid for more than one visit.
- C.3.1.3 Court costs related to filing an adoption petition.
- C.3.1.4 Attorney fees directly related to the legal process of finalizing the adoption.

- 8.C.3.2 The total amount of reimbursement for non-recurring expenses is based on actual costs and shall not exceed \$2,000 per child per placement.
- 8.C.3.3 An adoption assistance agreement and adoptive home placement agreement must be signed and the adoption assistance agreement shall specify the services to be provided under this section.
- 8.C.3.4 Payment of non-recurring expenses may begin as soon as the adoption assistance agreement has been signed and the child is placed in the adoptive home. Payment may be made directly to providers of service or to the adoptive parents for expenses they have incurred.
- 8.C.3.5 A bill or receipt shall be submitted before payment can be made. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the expense was incurred.
- 8.C.3.6 All non-recurring costs are taken out of IV-E adoption assistance, even for children with state adoption assistance agreements.

Title IV-E, Section 473 (a)(1)(B)(i) of the Social Security Act... the State shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child...

#### 8.C.4 Tax Credits

**Agencies are required to inform prospective adoptive parent(s) that a child who is in foster care with a local department of social services is potentially eligible for a Federal tax credit under section 23 of the Internal Revenue Code of 1986 (P.L. 110-351).** Adoptive parents are, in some cases, eligible for tax credits for qualifying expenses incurred to adopt a child. Adoptive parents should consult with the Internal Revenue Service ([www.IRS.gov](http://www.IRS.gov)) and professional tax preparers for more information.

#### 8.C.5 Tuition Grant

The Virginia Tuition Grant Program provides tuition and fees at any Virginia community college specifically for high school graduates or **individual who have**

**completed their** general education development (GED) who were in foster care, in the custody of a social services agency, or considered a special needs adoption at the time of graduation or GED completion. Further information on this program is available at the Department of Social Services website, [www.dss.state.va.us](http://www.dss.state.va.us), or from the community colleges. The community college website is [www.vccs.cc.va.us](http://www.vccs.cc.va.us).

#### 8.D. Step Four - Processing the Application for Subsidy

If adoptive parent(s) are requesting subsidy on behalf of a child, they must submit an application. These procedures are outlined below.

##### 8.D.1 Completion of the Application for Adoption Assistance (032-02-060)

- 8.D.1.1 This **application** is completed by the adoptive parent(s). They will need a separate **application** for each child needing a subsidy.
- 8.D.1.2 The agency retains the original and a copy is kept by the adoptive parent(s).
- 8.D.1.3 The application form may be submitted to the agency before placement of the child but must be approved before the adoption has been finalized.
- 8.D.1.4 Income of the adoptive parents is not to be considered in determining eligibility for subsidy.

##### 8.D.2 Submission to the Local Board

Local agencies may submit information related to adoption assistance agreements to local boards **or their equivalents** in accordance with agency procedures. The local board is responsible for ensuring the adoption assistance agreement adequately provides for the needs of the child. Because subsidy must be provided to all children who are determined eligible, the local board does not have the authority to deny adoption assistance.

##### 8.D.3 Completing the Adoption Assistance Agreement (032-02-062/3)

The adoption assistance agreement:

- 8.D.3.1 Shall be signed before entry of the final order of adoption. This form is signed by the adoptive parent(s) and the local board representative after the plan for adoption assistance has been approved by the board. The original is kept in the adoption record. A copy is given to the adoptive parent(s). When the child is in the custody of a private agency, the adoption assistance agreement must also be signed by the private agency.

ACYF-CB-PA-01-01. A written adoption assistance agreement must be signed by all parties to the agreement and in effect prior to the finalization of the adoption for any child for whom title IV-E adoption assistance payments are made.

- 8.D.3.2 The Virginia Administrative Code [22 VAC 40-260-20](#) requires that the adoption assistance agreement shall be executed within 90 days of receipt of the application for adoption assistance.
- 8.D.3.3 It shall specify the primary individual characteristic that made the child eligible for adoption assistance. Emotional bonding shall not be used as the primary characteristic unless it is the only individual characteristic that makes the child eligible for subsidy.
- 8.D.3.4 It shall specify the duration of the agreement. The agreement cannot be terminated before the child's 18th birthday unless the parent(s) agree or ineligibility is evident. With the concurrence of the adoptive parents, however, a time limit for payments or services may be set depending on the needs of the child.
- 8.D.3.5 It shall specify the amount of payment and the services to be provided, including Medicaid, social services block grant services, and non-recurring expenses.
- D.3.5.1 For CSA foster children who will continue to receive Medicaid, the agreement must specify the special medical or rehabilitative needs of the child.
- D.3.5.2 In the event that the adoptive parents live in or

move to another state, children receiving a IV-E subsidy will be eligible for Medicaid in the state where they reside. Children receiving state subsidy may be eligible for Medicaid, based on certain criteria (see 8.B.2.1).

- 8.D.3.6 The adoption assistance agreement may be adjusted with the concurrence of the adoptive parents, in the event of changes in the needs of the child. Changes in the agreement can be made at any time to pay for needs of the child that existed at the time of placement or that resulted from the child's foster care situation.
- 8.D.3.7 The agreement must specify that the interest of the child shall be protected should the adoptive parents and child move to another state while the agreement is effective.
- 8.D.3.8 The agreement shall remain in effect regardless of the state in which the adoptive parents are residents at any given time.

#### 8.D.4 Informing Adoptive Parents Of Their Right To Appeal

The agency shall inform adoptive parents, in writing, that they have the right to appeal decisions relating to the child's eligibility for subsidy and decisions relating to payments and services to be provided (refer to Part 9).

Title IV-E, Section 471(a)(12) of the Social Security Act. In order for a state to be eligible for payments under this part, it shall have a plan approved...which...provides for granting an opportunity for a fair hearing...to any individual whose claim for benefits...is denied or is not acted upon with reasonable promptness...

#### 8.D.5 Completing the Placement Agreement - Adoptive Home (032-02-023/3)

The adoptive parent(s) must sign the adoptive home placement agreement before subsidy payments begin.

#### 8.E Step Five - Beginning Payments And Services

Payments and services can only be provided to adoptive parents who have entered into a written adoption assistance agreement. Payment and/or services

may begin as soon as the child is placed in the adoptive home and an adoptive home placement agreement has been signed. A subsidy maintenance payment is not required for the child to receive Medicaid.

#### 8.F Step Six - Maintaining Responsibility

An adoption assistance agreement is a written agreement that is binding on the parties to the agreement. Both the adoptive parent(s) and the agency have responsibility related to the adoption subsidy agreement that must be met.

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement, binding on the parties to the agreement, between the state agency, other relevant agencies, and the prospective adoptive parents of a minor child.....

[Section 63.2-1302. B](#), *Code of Virginia*. Maintenance subsidy payments and special need subsidy payments shall be made on the basis of a subsidy payment agreement entered into by the local board and the adoptive parents, or in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, licensed child-placing agency, and the adoptive parents.

8.F.1. [22 VAC 40-260](#) requires the adoptive parents to:

8.F.1.1 submit annually to the agency an affidavit which certifies that:

F.1.1.1 the child for whom they are receiving subsidy remains in their care;

F.1.1.2 they are legally responsible for supporting the child; and if applicable,

F.1.1.3 the child's condition requiring subsidy continues to exist.

F.1.1.4 The affidavit must be signed and notarized by at least one parent and is all that is required for the agreement to remain in effect. The case does not have to be presented to the board for

renewal and a new agreement is not necessary.

[Section 63.2-1302..B](#), *Code of Virginia*. Adoptive parents shall submit annually...an affidavit which certifies that (i) the child on whose behalf they are receiving subsidy payments remains in their care and (ii) the child's condition requiring subsidy continues to exist.

Title IV-E, Section 473(a)(3)...Parents who have been receiving adoption assistance payments...shall keep the state or local agency administering the program...informed of circumstances which would...make them ineligible for such assistance payments, or eligible for assistance in a different amount.

8.F.1.2 Submit copies of all bills or receipts for special service payments for which they are requesting reimbursement.

8.F.2 The agency or child placing agency shall:

8.F.2.1 Maintain responsibility for any payment or services identified in the agreement, regardless of where the family resides. The agency may request assistance from an agency in the family's locality to provide any direct services the family may need. If the assisting agency is not able to provide the service directly, the placing agency is financially responsible for purchasing the service.

[Section 63.2-1302. C](#), *Code of Virginia*. Responsibility for subsidy payments for a child placed for adoption shall be continued in the event that the adoptive parents live in or move to another jurisdiction...

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement...which at a minimum...(B) stipulates that the agreement shall remain in effect regardless of the state of which the adoptive parents are residents at any given time...

8.F.2.2 Notify adoptive parents who are receiving subsidy that the annual affidavit is due. The notification letter shall be sent to the adoptive parents two months before the affidavit is due.

The notification should inform the adoptive parent(s) that the affidavit is due and request that it be provided by the due date specified in the notification letter.

[Section 63.2-1302. B](#), *Code of Virginia*. Failure to provide the annual affidavit may be grounds for suspension of the subsidy payment until such time as the affidavit is provided.

OASIS: The path to the cover letter & affidavit form is: Workload, Other, DocTrkg.

- 8.F.2.3 Ensure that the notarized affidavit has been returned. Failure to submit the affidavit will be grounds for suspension of the subsidy agreement until the information is provided. Once the affidavit is received by the agency, retroactive payment will not be made to the adoptive parent(s) to cover the period of time the affidavit was outstanding.

[Section 63.2-1302. B](#), *Code of Virginia*. Failure to provide this information may be grounds for suspension of the subsidy payment until such time as the information is provided.

- 8.F.2.4 Notify the adoptive parent(s) in writing when an adoption assistance agreement has been terminated. When there are two parents on an active adoption assistance agreement, both parents must be notified, even if the parents are separated. The agreement cannot be terminated without the concurrence of the adoptive parent(s) unless one of the conditions described in 8.G.

- 8.F.2.5 Investigate all suspected cases of adoption assistance fraud.

[Section 63.2-522](#), *Code of Virginia*. Whoever obtains, or attempts to obtain...by means of a willful false statement...or other fraudulent device, assistance or benefits from ...programs designated under rules and regulations of the State Board of Social Services...to which he is not entitled...is guilty of larceny, punishable under Section 18.2-95 of the *Code of Virginia*.

## 8.G. Step Seven - Terminating The Subsidy Agreement

8.G.1 The Adoption Assistance Agreement shall not be terminated before the child's 18th birthday without the consent of the adoptive parents unless:

- 8.G.1.1 it is determined that the child is no longer receiving financial assistance from the adoptive parents; or
- 8.G.1.2 the adoptive parent(s) are no longer legally responsible for the child; or
- 8.G.1.3 the child's condition requiring subsidy no longer exists.

[Section 63.2-1302. A](#), *Code of Virginia*. Subsidy payments shall cease when the child with special needs reaches the age of eighteen years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(B) no payment may be made to parents with respect to any child if the state determines that the parents are no longer legally responsible for the support of the child or if the state determines that the child is no longer receiving any support from such parents.

8.G.2 The Adoption Assistance Agreement must be terminated when:

- 8.G.2.1 the child becomes 18 unless the child has:
  - G.2.1.1 a physical, mental, or emotional disability (based on DSM-IV classifications and written diagnosis) which warrants the continuation of assistance, or
  - G.2.1.2 an educational delay. This shall include educational delays resulting from a child's foster care circumstances and applies only to completion of high school.
  - G.2.1.3 If a child has one of the conditions in G.2.1.1, the IV-E or state agreement shall be continued until the child reaches the age of 21.
  - G.2.1.4 If a child has a IV-E Adoption Assistance Agreement and educational delay is the sole

reason for continuing the agreement, the agreement must be changed to a state agreement in order to continue after the age of 18. When an educational delay is the reason for continuing the agreement, the agreement shall be terminated at age 21 or when the child finishes high school, which ever comes first.

[Section 63.2-1302. A, Code of Virginia...](#) If it is determined that the child has a mental or physical handicap, or an educational delay resulting from such handicap, warranting the continuation of assistance, subsidy payments may be made until the child reaches the age of twenty-one years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the state determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one)...

- 8.G.2.2 the agency determines that the child is no longer receiving financial support from the adoptive parents;
- 8.G.2.3 the adoptive parent(s) are no longer legally responsible for the child; or
- 8.G.2.4 the child's condition requiring subsidy no longer exists.

### 8.G.3 Death of adoptive parent(s) and adoption dissolution

Adoption subsidy when adopted child and family are in Virginia:

- 8.G.3.1 When a IV-E adoption assistance child's adoptive parents die or adoption dissolves and the child is subsequently placed in another adoptive home, the child's IV-E eligibility can be reinstated for purposes of adoption assistance. The IV-E adoption assistance agreement can be reinstated, regardless of whether the child is placed in the subsequent adoptive home by an agency. The child does not have to re-enter foster care to be eligible for continued IV-E adoption assistance. Nor does there need to be an Adoptive Home Placement Agreement, as in non-agency placements.

- 8.G.3.2 The agency responsible for the initial adoption assistance agreement remains responsible for continuing the agreement when the child is placed directly by the adoptive parents in the subsequent adoptive home.

#### Adoption subsidy in interjurisdictional adoptions

- 8.G.3.3 When a IV-E adoption assistance child's adoptive parents die or the adoption dissolves and arrangements are made by the adoptive parents for subsequent adoption of the child by a family in another state, the new adoptive parents would apply for adoption assistance in their state of residence. The public welfare agency in that state is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and paying the subsidy.

- 8.G.4 The Adoption Assistance Agreement shall not be terminated if the child's condition improves but could deteriorate again. In this case, the agreement shall be suspended without a payment rather than terminated.

- 8.G.3.1 The agency must notify the adoptive parents in writing that payments will discontinue but that the agreement remains in effect.

- 8.G.3.2 If a future need arises, handle as a change in the needs of the child and amend the Adoption Assistance Agreement.

- 8.G.5 The adoptive parents must be notified in writing that the agreement has been terminated and that they have the right to appeal this decision.

#### 8.H Step eight - Documenting pertinent information

- 8.H.1 The following information must be documented and kept in a separate subsidy file in the child's adoptive name. The information is needed for federal and state audits of the adoption assistance program. Failure to maintain the information could result in a child being found ineligible for adoption assistance and/or a loss of funding for the whole program. This

information must be maintained on all children adopted with subsidy, even those whose adoptions are finalized out of state.

8.H.1.1 Documentation of the basis for the child's eligibility for subsidy

H.1.1.1 For SSI children, a copy of the notice of eligibility from the social security administration or a SSI payment stub.

H.1.1.2 For IV-E children, copies of all Foster Care Maintenance Evaluation forms or intra-agency forms that document:

- (i) Initial eligibility for IV-E foster care. The form must be dated and signed.
- (ii) Eligibility redetermination for IV-E foster care that was applicable at the time the adoption petition was filed. This can be documented by the service worker's written certification that the income and resources of the child have not changed since the last redetermination or by using the foster care maintenance evaluation form. The certification and form must be dated and signed.
- (iii) IV-E payments made for children who entered foster care through a temporary entrustment agreement.

H.1.1.3 A copy of the initial court order or entrustment agreement:

- (i) If the child was committed by the court, the initial court order must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child. Reasonable efforts to prevent removal must

be documented in a court order within 60 days of entry into care.

- (ii) If the child entered care through a permanent entrustment, there must be a subsequent court order approving the entrustment. The court order must be obtained within six months of the child's entrustment and must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child or that there is no less drastic alternative than removal of the child from the home;

#### 8.H.2 Documentation of Special Needs, including copies of:

- 8.H.2.1 The court order terminating parental rights. This documents that the child cannot return home.
- 8.H.2.2 The summary of the child's special needs including where relevant the child's placement history, family background, and personal characteristics.
- 8.H.2.3 Pertinent diagnostic reports.
- 8.H.2.4 The statement for selecting this particular family for the child.
- 8.H.2.5 A copy of the AREVA Child's Registration form. This documents that reasonable efforts were made to first place the child without subsidy. In some cases, reasonable efforts do not have to be made. One example of when reasonable efforts do not have to be made is when the child is being adopted by the foster parents. When reasonable efforts are not made, there must be documentation that justifies the reason. The Application for Adoption Assistance documents this for children adopted by foster parents.

#### 8.H.3 Documentation of adoptive placement, final order, and adoption assistance including copies of:

- 8.H.3.1 The Adoptive Home Placement Agreement
- 8.H.3.2 The petition for adoption
- 8.H.3.3 The order of reference
- 8.H.3.4 The final order of adoption
- 8.H.3.5 The child's original birth certificate
- 8.H.3.6 The initial Adoption Assistance Agreement and all changes in the agreement
- 8.H.3.7 All annual affidavits
- 8.H.3.8 All bills submitted by the adoptive parents for reimbursement/payment

#### 8.I. Step Nine - Statistical Reporting and Financial Information

Adoption assistance payments may begin as soon as the child is placed in the adoptive home if the adoptive home placement agreement has been signed and the adoption assistance agreement has been approved and signed.

##### 8.I.1 Statistical Reporting

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

##### 8.I.2 Financial reporting

###### 8.I.2.1 Warrant registers

A separate warrant register must be prepared for state subsidies, for IV-E subsidies, and for non-recurring expenses:

- I.2.1.1 For state subsidies, the warrant register is entitled State/Local Special Need Adoption.

I.2.1.2 For IV-E subsidies, the register is entitled Subsidized Adoption IV-E.

I.2.1.3 For non-recurring expenses, the register is entitled Non-Recurring IV-E Expenses.

#### 8.I.1.2 Expenditure reporting

Local reimbursement of subsidy expenditures is done electronically through LANCER (Locality Automated System for Expenditure Reimbursement.) More information is available for local agencies in the *Finance and Administration Guidelines Manual for LDSS*, and the *LASER Expenditures Guidelines Manual*. Both are available at the DSS internal website, <http://localagency.dss.virginia.gov/divisions/finance/laser/>

### 8.J Determining Eligibility After Legal Adoption

#### 8.J.1 To be eligible for subsidy after legal adoption:

8.J.1.1 the child must have a physical, mental or emotional condition that was present at the time of adoptive placement and no more than one year has elapsed since the most recent diagnosis was made; or

8.J.1.2 the need for subsidy results from a hereditary tendency, congenital problem, or birth injury that could lead to a future disability and no more than one year has elapsed since the most recent diagnosis was made.

#### 8.J.2 Procedures for the Child Whose Eligibility Is Established after Legal Adoption:

8.J.2.1 The application must be submitted with a written diagnosis that is not older than 12 months.

8.J.2.2 The application must be for a state subsidy.

- 8.J.2.3 If there is an Adoptive Family Preservation Program (AFPP) in the area in which the applying adoptive family resides and the family is in crises, the agency should refer the family to AFPP for assessment and crisis intervention. This may assist in meeting the family's immediate needs, while the local agency proceeds with the application and eligibility process. The AFPP toll free number is 1-888-821-HOPE.
- 8.J.2.4 Children for whom subsidy applications are made after finalization are not eligible for Medicaid.
- 8.J.2.5 Type of Payment
- The payment may be for maintenance, special services, or both.

[Section 63.2-1300](#). *Code of Virginia*. "Child with special needs" shall mean...This term shall also include a child for whom the factors set out in subdivision (b) 1 or (b) 2 are present at the time of adoption but are not diagnosed until after the final order of adoption is entered and no more than one year has elapsed.

8.K The Interstate Compact on Adoption and Medical Assistance (ICAMA)

The 1985 Consolidated Omnibus Reconciliation Act (COBRA) passed by Congress mandated that states of residence provide Medicaid to all children adopted under Title IV-E adoption assistance, including children with adoption assistance agreements from other states. COBRA also provided states with the option of extending Medicaid to children adopted pursuant to state-funded adoption subsidy programs, if the child met certain criteria. This is referred to as the COBRA option **and allows States to reciprocate with each other**.

The ICAMA, of which Virginia is a member, is the mechanism by which the 1985 COBRA is operationalized. ICAMA has the force of law within and among the member states and provides for uniformity and consistency of policy and procedures when a child with special needs is adopted by a family in another state or the adoptive family moves to another state.

Title IV-E, Section 475 (3) of the Social Security Act. The (adoption assistance) agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interest of the child in cases where the adoptive parents and child move to another state while the agreement is effective.

OASIS: All information on children who need ICAMA services must be entered into OASIS. The path is Workload, Adopt, Subsidy, ICAMA. The ICAMA forms can be printed from OASIS.

A child receiving adoption assistance that is placed across state lines for the purpose of adoption or moves with the adoptive family to another state after entry of a final order of adoption shall be eligible for Medicaid in their state of residence in certain situations. These situations are described below:

8.K.1 When a Virginia Child Is Placed in or Moves to Another State.

8.K.1.1 The child shall be eligible for Medicaid in the new state of residence if:

K.1.1.1 the child has a IV-E Adoption Assistance Agreement; or

K.1.1.2 the child has a state Adoption Assistance Agreement and is continuing to receive Medicaid on the basis of the state Adoption Assistance Agreement, and

(i) the new state of residence is a party to the Interstate Compact on Adoption and Medical Assistance;

(ii) the new state of residence provides the COBRA option for children moving into their state; and

(iii) the new state of residence and the adoption assistance state reciprocates the COBRA option.

8.K.1.2 Administration of the Interstate Compact on Adoption and Medical Assistance is handled by the Deputy Compact Administrator in the Adoption Unit at Central Office. The local agency shall:

- K.1.2.1 Complete ICAMA Form 6.01 - Notice of Medicaid Eligibility/Case Activation. This form is used to certify to the child's eligibility for Medicaid in the state of residence:
- (i) For IV-E Adoption Assistance children, it is used to certify to the child's eligibility for Medicaid in the state of residence:
  - (ii) For state children, the form certifies that Virginia has picked up the COBRA option to provide Medicaid to non-IV-E children receiving adoption assistance who have special medical or rehabilitative needs and provides reciprocity for non-IV-E children from other states that have also picked up the COBRA option.
- K.1.2.2 Submit the ICAMA 6.01 to the Deputy Compact Administrator in the Adoption Unit, along with a copy of the initial adoption assistance agreement and the most recent update to the adoption assistance agreement.

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OASIS: The ICAMA 6.01 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.01.  
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- K.1.2.3 Complete ICAMA Form 6.02 - Notice of Action. Complete only the top portion of the form that identifies the adoptive parents and child, the date the child will be living at the new address and the new address. This form:
- (i) Is submitted to the Deputy Compact Administrator in the Adoption Unit, who completes the remainder of the form and forwards it to the adoptive parents.
  - (ii) The form notifies the adoptive parents that the required paperwork and

documentation necessary for issuance of a Medicaid Identification Document in the child's intended state of residence has been completed and mailed.

OASIS: The ICAMA 6.02 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.02.

- 8.K.1.3 The Deputy Compact Administrator will notify the agency, using ICAMA Form 6.03 Medicaid Case Activation, when a Medicaid case has been opened for the child in the new state of residence.

Medicaid in the child's originating state should be closed on the last day of the month the child leaves that state. The Medicaid case in the new residence state should open on the first day of the following month.

OASIS: The ICAMA 6.03 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.03.

- 8.K.2 When a child from another state moves into Virginia and is eligible for a Virginia Medicaid Card, the other state will complete the necessary forms and mail them to the Virginia Deputy Compact Administrator.

- 8.K.2.1 The Virginia Deputy Compact Administrator will notify the DSS in the locality where the child will be residing of the child's need for a Virginia Medicaid card.

- 8.K.2.2 The ICAMA Forms and accompanying documentation shall serve as the application for Virginia Medicaid.

- 8.L. Adoption Assistance For Children in The Custody of Private Agencies.

[Section 63.2-1300](#), *Code of Virginia*. A "child with special needs" shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto...or (ii) in the custody of a licensed child-placing agency.....

When a child with special needs is in the custody of a child-placing agency licensed in Virginia, the public and private agency must work together to provide an adoption assistance agreement on behalf of the child. Applications are submitted to the local DSS in the area where the adoptive family resides. If the adoptive family resides out of state, application would be made to the placing agency, who would work with the DSS in the city/county where the agency is located. The steps to be followed and the responsible agency are outlined below:

8.L.1 Determine whether the child is a child with special needs.

The private agency:

- 8.L.1.1 determines that the child cannot be returned home;
- 8.L.1.2 determines that the child has at least one individual characteristic that makes the child hard to place (See to Part 8.A.2.2); and
- 8.L.1.3 makes a reasonable effort to first place the child without subsidy.

8.L.2 Determine whether the child will be eligible for IV-E or a State Adoption Assistance Agreement.

The private agency:

- 8.L.2.1 obtains necessary documentation; and
- 8.L.2.2 sends referral and documentation to the eligibility unit in the local department of social services. The referral should be made to the local agency in the same geographical location where the family resides.

The local agency:

- 8.L.2.3 screens the child and notifies the private agency of the child's eligibility for IV-E.

8.L.3 Family makes application for subsidy.

The private agency:

- 8.L.3.1 notifies local agency's service unit of family's interest in subsidy.

The local agency:

- 8.L.3.2 opens case on OASIS; and

- 8.L.3.3 sends forms to the family, negotiates needs with the family, obtain documentation of any necessary information. Both agencies need to be involved, working out together who takes responsibility for each function. The local agency has the final decision. Disputes between the agencies will be resolved by the regional office foster care and adoption specialist in the locality where the public agency is located.

- 8.L.4 Presentation of the Adoption Assistance Application to the local board:

The local agency, with involvement of private agency:

- 8.L.4.1 obtains all necessary documentation;

- 8.L.4.2 submits application package to the local board; and

- 8.L.4.3 obtains signatures on the adoption assistance agreement. The private agency signs the agreement with the local agency.

- 8.L.5 Begin payments and services

The local agency:

- 8.L.5.1 sends necessary information to the agency's fiscal officer and makes payments, using existing system. The private agency provides all the services necessary for finalization of the adoption.

- 8.L.6 Submits monthly expenditure report.

The local agency is responsible for all reporting related to expenditures.

### 8.L.7 Maintain Responsibility After Adoption.

The local agency:

- 8.L.7.1 sends Notice of Annual Renewal;
- 8.L.7.2 increases the amount of maintenance payments when the child reaches a higher age group, if appropriate; and
- 8.L.7.3 makes changes in the adoption assistance agreement, when necessary. The local agency and private agency work cooperatively in making the changes.

The private agency:

- 8.L.7.4 provides case management services when the family moves out of state; and
- 8.L.7.5 provides direct services or coordinates the delivery of services for families receiving adoption assistance.

### **8.M Checklist for Exploring Resources to Defray Costs of Subsidy**

Before recommending any type of payment, all known resources must be explored to determine whether the costs of the child's special needs can be fully or partially defrayed. Some of these resources are:

#### 1. Governmental Benefits To Which A Child May Be Entitled

- a. The child may be entitled to certain benefits because of the death or disability of a birth parent or adoptive parent. These include: Veterans Administration, Social Security, Railroad Retirement, etc.;
- b. If an adoptive parent is in military service, the child may be eligible for services under any existing military program.

#### 2. Supplemental Security Income (SSI) Payments

SSI payments the child is receiving prior to adoptive placement may be continued after placement in the following circumstances:

- a. Before legal adoption, the income of the adoptive parents is not counted; however, because they are providing in-kind support to the child, the SSI payment can be reduced up to one-third of the regular amount;
- b. After legal adoption, the income and resources of the adoptive parents will be counted, using the same formula that would be applied to a birth child in the family unit;
- c. A SSI eligible child may receive both SSI payments and subsidy payments after adoption. However, Social Security will count the amount of Title IV-E adoption assistance paid to the parents and decrease the SSI benefit dollar for dollar by the amount of the subsidy payment.

#### 3. Medicaid Coverage

- a. Medicaid coverage must be extended for children receiving a IV-E subsidy for as long as there is an adoption assistance agreement in effect. In some cases, Medicaid may not provide sufficient coverage to meet all of the child's needs. In this event, a special service payment may be used concurrently with Medicaid to pay for services not covered by Medicaid.

- b. Medicaid coverage for children receiving a State subsidy may be extended after adoption when:
- 1) the child has a special medical or rehabilitative need and the child's own income and resources do not exceed the ADC or Medicaid income limit for a single person; or
  - 2) the income and resources of the adoptive family unit meet Medicaid eligibility requirements. In determining the family's eligibility for Medicaid, subsidy payments are not counted as income.
  - 3) Medicaid waiver service, if child is in a facility for 30 days or more.

4. Services Provided By Children's Specialty Services, State Department of Health

Children's Specialty Services may provide service for certain conditions on a flat-rate clinic fee basis or on a spend-down basis, depending upon the income level of the adoptive parents. Explore these services before approving a special service payment for the child's medical, psychiatric, or dental needs.

5. Hospital And Major Medical Insurance Plans

Any insurance plan carried by or available to the adoptive parent(s) may cover expenses for the child. If an additional premium or new policy could provide better coverage, the increased cost may be covered by a special service payment, paid directly to the adoptive parent(s).

6. Education Services

Local school divisions are responsible for providing free appropriate education to physically and mentally disabled children. This resource must be explored before a special service payment can be made for a child who is mentally retarded, learning disabled, or has minimal brain dysfunction. If the school division refuses to provide this service, document their refusal and contact the Division of Family Services, Adoption Unit.

Local school divisions are financially responsible for all services specified in a student's Individualized Education Program, for those students not placed in private day or residential special education placements. Local school divisions also pay for aides/paraprofessionals providing instructional support and those specified in Virginia Special Education Regulations governing staffing, as well as

evaluations associated with special education. All services specified in a student's IEP for private day or residential special education placements are funded through CSA. The special education component of a private residential placement made for non-education reasons (e.g., foster care, court placement) are also funded through CSA.

7. Virginia Birth-related Neurological Injury Compensation Program

This program assists parents in meeting expenses related to the disability of their child. For qualified children, the fund covers expenses not covered by insurance and other programs, and may include such items as medical or hospital expenses, rehabilitation, special equipment and lost wages. More information is available at 1-800-260-5352, or [www.vabirthinjury.com](http://www.vabirthinjury.com).