

# 4

## OPENING AND MAINTAINING THE CASE

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# 4

## OPENING AND MAINTAINING THE CASE

### 4.1 Confidentiality of records

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The records of children in foster care are confidential and information about children in foster care or their parents or relatives is confidential (§ [63.2-104](#)). The Local Department of Social Services (LDSS) may disclose information:

- Upon order of the court; for instance, to the Guardian ad litem and the Court Appointed Special Advocate (CASA) who are appointed to a child as the result of a court order.
- When the LDSS determines that disclosure is in the best interest of the child and the person has a legitimate interest in the records and information in a child protective services (CPS) case, without a court order and without the consent of the family. Persons with a legitimate interest include, but are not limited to:
  - Persons responsible for investigating a report of known or suspected abuse or neglect or for providing services to the child or family, including multidisciplinary teams and family assessment and planning teams, law-enforcement agencies, and Commonwealth attorneys.
  - Child welfare or human services agencies in Virginia when they request information to determine compliance with a child-protective services plan or court order.
  - Personnel of the school or child day program as defined in § [63.2-100](#) that the child attends so the LDSS can receive ongoing information on the child's health and behavior, and the activities of the child's custodian.
  - Parent, grandparent, or potential caretaker of the child in the event the LDSS has to remove the child from his custodian.
  - The Commitment Review Committee and the Office of the Attorney General for the purposes of sexually violent predator civil commitments (§ [63.2-105](#)).

- When the LDSS refers the child and family to the Family Assessment and Planning Team (FAPT) for assessment, services, or funding, obtaining proper consent to share information with the team if LDSS does not have custody of the child ([§ 2.2-5210](#)).

For additional information, see the Child Protective Services Manual, Part 9 Confidentiality, [Section 9.7](#) on Release of Information to Legitimate Interests.

For children who have been adopted and have subsequently reentered foster care, no identifying information can be released from their adoption record or included in any report or case plan the LDSS creates, including information from any electronic foster care case file. The information from the prior foster care case is protected from disclosure under the circumstances outlined in Section 5 of Adoption Guidance, as information retained from the foster care record is now part of the adoption record (See Section 19.10.2).

## 4.2 Freedom of Information requests

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Code of Virginia [§ 2.2-3700](#) (Virginia Freedom of Information Act) requires that official records held by public agencies are to be open to inspection. Any individual may exercise their Virginia Freedom of Information Act rights to see public information in the custody of any public agency. The Act provides procedures for requesting records and responding to those requests. It also provides exceptions to providing certain information to individuals who make requests pursuant to the Code of Virginia.

The provisions of Code of Virginia [§ 2.2-3700](#) et seq. apply to all governmental entities. It includes the request of current and former clients to have access to their LDSS records (see [section 19.10.5](#) Access to records after closure). Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records.

## 4.3 Setting up case in OASIS

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The Code of Virginia and federal law require that information be maintained in the state-approved Child Welfare Information System, OASIS, and that every child in foster care be tracked so that the Virginia Department of Social Services (VDSS) may monitor service delivery and planning for achieving permanency ([§ 63.2-907](#)). This includes children placed under a non-custodial foster care agreement. OASIS is Virginia's official system of record in which cases shall be documented and tracked.

### 4.3.1 Opening foster care case in OASIS

- Information for every child in foster care shall be entered into OASIS as soon as possible but **no later than five (5) calendar days** after the child's custody is transferred to a LDSS or they are placed in foster care. A delay in entry in OASIS will result in a federal penalty under the federal Adoption and Foster

Care Analysis and Reporting System (AFCARS). The worker is responsible for entering and updating all case data in OASIS as soon as possible but **no later than 30 calendar days** after each activity or event, with two exceptions:

- Placement and funding information for children shall be entered within five (5) business days of any placement change, in order to accurately track the whereabouts of children in care.
  - When entering placement information into OASIS, verify that the contract agency matches the Licensed Child Placing Agency (LCPA)/Children's Residential Facility (CRF) licensure information received by the worker before placement. If a LCPA/CFR is not listed on the pick list in OASIS, the service worker should contact the OASIS help desk to request an addition to the pick list.
- The foster care case should be closed within five (5) business days after the child leaves the care of the LDSS.
- The case is opened in the family's name. A child in the custody of the LDSS or in a non-custodial foster care placement is considered a member of a family case.
- The case is opened in the child's name if there is no known family (e.g., in abandonment cases).

#### 4.3.2 Choosing Eligibility Determination (Funding Screen)

There are two sources of maintenance funds for children in foster care: title IV-E for title IV-E eligible children and CSA-state pool funds for non-title IV-E eligible children. These categories determine the source of maintenance payments made on behalf of the child. In order to receive federal funding, workers shall identify the eligibility category on the Funding Source Screen in OASIS.

When documenting a change in maintenance costs due to a birth date, enhanced payment, etc., the worker should input the information so that it is effective the first day of the month following the actual date that initiated the rate change.

For additional instructions on entering data on maintenance payments into the Funding Source Screen see [Section 18.1.8](#) of this chapter or OASIS help.

## 4.4 Setting up paper case records

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OASIS is the official case record for all foster care cases and is supplemented with forms, letters, and other original hard copy documents, which shall be retained in the paper case record. Each child in the case should have their own individual paper case record. Most of the case documentation will be in OASIS, however, and not in the paper file. It is not necessary to copy the screens into the case record unless this is the policy

of the LDSS. Original documents (Social Security card, birth certificate, psychological reports, etc.) will remain in the paper record, as well as documents that require signatures. Many of the foster care forms are either in OASIS and can be completed and printed as needed or are available on the DSS public website or Fusion page under “Forms”.

Material in the paper case record should be separated into divisions, grouping the same or similar forms and documents together. Within each division, material shall be fastened together in chronological order with the most recent material on top. A suggested paper case record format follows:

- Essential documents:
  - Referral to benefits program specialist for title IV-E determination and Medicaid.
  - Birth verification.
  - Social Security card and/or application.
  - Copies of medical insurance cards.
- Legal documents with original signatures:
  - Petitions.
  - Entrustments.
  - Foster care plans (including the court approved Individual and Family Service Plan (IFSP)).
  - Court orders.
  - ICPC Forms.
- Agreements with original signatures:
  - Non-custodial foster care agreements.
  - Foster family home placement agreements.
  - Independent living agreements.
  - Respite care agreements.
  - Permanent foster care agreements.
- Current photograph, taken at least annually.

- Reports:
  - Social histories.
  - School reports.
  - Medical reports.
  - Psychological reports.
  - Quarterly provider reports.
- Residential care:
  - Application.
  - Placement reports.
- Correspondence in chronological order:
  - Notice of visitation.
  - Notice of placement change.
  - Notice of panel review.
  - CPS summary or affidavit.
  - Other correspondence.
- Funding:
  - Title IV-E determinations.
  - CSA documentation.
  - Purchase orders and invoices.
- Adoption documents:
  - Termination of Parental Rights.
  - Adoption Assistance Agreement (if applicable).
  - Adoptive home placement agreement.

## 4.5 Referrals for maintenance: Title IV-E and State Pool Funds

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All children in foster care placements are eligible to receive room, board, supervision, a supplemental clothing allowance, transportation to visit family members, and transportation to remain in the school in which the child was enrolled at the time of placement if determined to be in the child's best interests. Maintenance is defined by federal law and additional information about maintenance payments and amounts is available in [Section 18](#) of the chapter. For information on arranging and paying for school transportation for the child to remain in the same school see [Virginia Department of Education and Virginia Department of Social Services Foster Connections: Joint Guidance for School Stability of Children in Foster Care.](#)

### 4.5.1 Title IV-E eligibility requirements

For children who meet title IV-E eligibility requirements, the federal government partially funds maintenance costs of children in foster care. All children in care are to be referred to benefits program specialist for an initial determination of title IV-E eligibility. Procedures for determining a child's eligibility for IV-E funds are found in the [Title IV-E Eligibility Manual](#).

- The service worker shall refer a child for screening **within ten (10) calendar days** of the removal from the home, the date the voluntary entrustment agreement is signed, or the date the non-custodial agreement is signed.
- The service worker is responsible for providing the benefit programs specialist the following documents for the eligibility file:
  - Copy of the birth certificate.
  - Copies of legal documents including affidavit pertaining to the removal, petitions, entrustments, service plans or the court approved IFSP, court orders, and ICPC forms.
    - Note: It is very important to provide the petition that initiated the episode of foster care. This petition is used to assist in establishing which month eligibility begins. The court orders are used to determine and start the clock on timeliness of hearings to continue title IV-E eligibility.
  - Copies of agreements including non-custodial foster care agreements, foster family home placement agreements, voluntary continuing services and support agreements, independent living arrangement agreements, and permanent foster care agreements.
  - Copies of placement applications, licensures, placement reports and financial contracts.

- Copies of purchase orders and invoices.
- For adoption cases: copies of the adoption assistance agreement and the adoptive home placement agreement.
- The service worker is responsible for referring and providing information to the benefits program specialist that is used in making the title IV-E eligibility determination. The [Title IV-E/Medicaid Eligibility Form](#) is available on the DSS internal website.

#### **4.5.2 Additional requirements for continuing eligibility for title IV-E funding and requirements for all foster care cases**

- The court shall hold a permanency planning hearing within 12 months from the date the child entered foster care which is defined as the earlier of the date of the judicial finding of abuse/neglect or sixty (60) days from physical removal. (See [Section 3.3](#) of this chapter).
- Annually, there shall be a judicial determination at each court hearing that reasonable efforts have been made to reunite; or if the goal is other than Return Home, to finalize a permanent placement for the child (e.g., placing the child with relatives in another state in accordance with the ICPC), and to complete whatever steps are necessary to achieve permanency for the child through adoption or custody transfer to relatives.

The failure of the LDSS to meet the above requirements will make a child not eligible for title IV-E maintenance payments from the first of the month following the month the requirement was due and may resume the first of the month within the month the requirement was then met.

#### **4.5.3 No redetermination of title IV-E eligibility required**

Eligibility for title IV-E is determined once, upon the child's entry into foster care. No subsequent redeterminations are required. Should information become available to the service worker that would affect the child's eligibility for title IV-E payments or continued eligibility, the service worker shall make such information known to the benefits program specialist worker.

#### **4.5.4 Situations impacting child's eligibility for title IV-E**

The following situations would make a child ineligible for IV-E payment:

- The child is on a trial home visit or runaway status (AWOL).
- The child is placed with an allowable provider or a facility type which has a provisional or emergency approval, or whose approval has expired, or is no longer considered to be licensed.

- The child income or resource exceeds allowed criteria.
- The child's last judicial determination was not held within the past 12 months and/or did not result in a court order with appropriate "reasonable efforts" language.
- The child is placed in an unallowable title IV-E facility or agency, such as secured locked facilities operated primarily for the detention of juvenile delinquents; forestry or training camp; psychiatric or medical hospital; and public institution with more than 25 beds.
- The child *in foster care* is receiving the full SSI benefit.

The following situations would end IV-E eligibility:

- The child no longer meets the age requirement.
- The child entered the agency's care and responsibility as the result of a voluntary placement agreement and the LDSS has not obtained a custody order with a judicial determination to the effect that continued voluntary placement is in the child's best interest within 180 days of the agreement.
- LDSS custody has been terminated.
- The child is on a trial home visit for more than six (6) consecutive months or time exceeds the time authorized by the court.
- The child is on runaway or absent without leave (AWOL) status for more than six (6) consecutive months.

The benefits program specialist is to be notified immediately of any change in the child's situation that might affect eligibility, including notification in advance that a child will become age 18, or is expected to graduate from high school prior to reaching age 19.

Additional information regarding title IV-E may be found on DSS internal website in the [Title IV-E manual](#).

#### **4.6 Referral for determination of Medicaid (title XIX) eligibility**

Funding for medical services in this program is from state and federal funds provided through the Virginia Department of Medical Assistance Services (DMAS). Determination of eligibility is the responsibility of benefits program specialists in the LDSS. Service workers are responsible for submitting the appropriate form to the benefits program specialist **within ten (10) days** of date of placement.

- If a child has been determined **title IV-E eligible**, a separate Medicaid application is not required. The [Title IV-E Foster Care & IV-E Medicaid Application](#) is used.
- If the child *in foster care* is **Non IV-E**, a separate Medicaid application must be filed, either online at CommonHelp, by phone with CoverVirginia, or with a paper application submitted to LDSS. It is signed by an authorized employee of the public/private agency that holds custody of the child. (If the child has been placed with and is living with a parent/caretaker relative, that person can sign the application.)

It is recommended that the service worker complete both applications **within ten (10) days** of the child entering foster care. This will prevent a delay in Medicaid coverage should the child not be found to be IV-E eligible.

#### 4.6.1 Signing and filing applications

For children in non-custodial foster care, the parents or guardian shall sign and file the application. The parent or guardian cannot authorize the service worker to sign the application.

#### 4.6.2 Informing Medicaid of changes

Eligibility for Medicaid is redetermined annually. However, the service worker shall provide the benefits program specialist with any new information that might affect Medicaid eligibility **within ten (10) days** from the date of receipt of information regarding changes.

Changes that might affect eligibility include:

- Changes in income or resources (e.g., wages, inheritances, savings);
- Return of a child to their home on a permanent basis;
- Final order of adoption;
- Age of the child;
- A trial home visit in excess of six (6) months;
- Termination of custody by the court or placement by the LDSS or parent; or
- Release of the LDSS of responsibility for aftercare supervision.

#### 4.6.3 Redetermination of eligibility for Medicaid

The service worker is responsible for providing the benefits program specialist information required for the annual redetermination of eligibility and information related to changes in the child's situation.

Changes that might affect eligibility include:

- Changes in income or resources (wages, inheritances, savings, etc.);
- Return of a child to their home on a permanent basis or a trial visit in excess of three (3) months;
- Termination of custody by the court; or
- Placement of children in jails, detention centers, or learning centers.

#### 4.6.4 Managed Care

Most children who are eligible for Medicaid and placed in foster care have been transitioned from Medicaid fee-for-service to Medicaid managed care. This transition to managed care improves access to credentialed health providers and coordinated care. Not all children that are eligible for Medicaid are enrolled in managed care due to exclusions. These exclusions include hospitalization, admittance into a nursing home, admittance into a Level C residential facility, placement out of state, or having Third Party Liability insurance through a biological or adoptive parent. The Department of Medical Assistance Services (DMAS) contracts with Managed Care Organizations (MCOs) to provide health care services and additional services such as case management, care coordination, disease management programs focusing on various chronic conditions (e.g., pediatric asthma, diabetes, and obesity), a 24-hour nurse advice line, and toll free member helplines. For questions, contact [fostercare@dmas.virginia.gov](mailto:fostercare@dmas.virginia.gov).

Requests for changes of the MCO may occur at any time of the year, however, the service worker is the only person authorized to request the change of MCO for children in foster care through the Managed Care helpline (800-643-2273). The worker will be asked to provide the child's name, date of birth, Medicaid ID number, placement address and the locality's address and FIPS code in order to request a change. Foster parents and biological parents are not approved to make changes of the MCO. It is the responsibility of the service worker to discuss with the foster care placement if changes are to be made in the MCO for the child based on specific needs or placement changes. The service worker or the foster care parent can make changes to the child's primary care physician by contacting the assigned MCO directly.

For additional information and resources regarding Virginia Medicaid Managed Care, see [Virginia Medicaid Managed Care](#).

## 4.7 Referral for collection of child support

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The VDSS is charged with collecting support for dependent children ([§ 63.2-1903](#)) in accordance with state and federal laws and policies and procedures of the VDSS Division of Child Support Enforcement (DCSE). The court may determine the amount of support at the preliminary removal hearing or may refer the case to DCSE to schedule another hearing to discuss support. The LDSS shall address support in agreements signed with parent(s) to place a child in foster care ([§ 63.2-910](#)).

The LDSS is responsible for reporting to DCSE all information necessary to aid in securing support on behalf of children.

### 4.7.1 Fundamental information about support

- Both parents should be pursued for support.
- If support is established and collection begins, DCSE will distribute funds according to the child's funding category.
- The state will receive the state's share of funds collected by DCSE for title IV-E children. Funds collected for non-title IV-E children will be forwarded to the LDSS. These support payments are placed in special welfare accounts to be used for reimbursement of foster care expenses for the child (e.g., maintenance, medical care not covered by Medicaid, and services). Instructions for the use of special welfare funds can be found in the [Local Finance Guidelines Manual](#).
- If the parent provides a financial statement indicating their ability to pay, child support guidelines will be used to determine the support amount.
- Current support payments will be assessed from the date of custody or when the parent(s) signs an agreement to place a child in foster care.
- DCSE will not collect support payments from absent parents after parental rights have been terminated or a permanent entrustment has been executed and approved by the court, unless the parents have accrued arrears. The service worker shall notify the benefits program specialist in writing when termination of parental rights occurs.
- Support payments will not affect foster care payments.

### 4.7.2 Court-ordered child support

- The petition requesting custody or foster care placement shall also request that the issue of child support be addressed at the preliminary removal hearing.

- The court shall address child support whenever a child is placed in foster care ([§ 63.2-909](#)). The court may determine the amount of support at the initial hearing, schedule another hearing to determine support when DCSE staff can be present, or refer the case to DCSE to determine the support amount.
- The LDSS and district DCSE office will determine how DCSE staff will be informed of support hearings pertaining to children placed in foster care. The service worker is not responsible for determining the child support amount.
- If the service worker believes the collection of support will interfere with the goal of returning the child home, the worker should inform the court at the hearing where child support is addressed of those specific concerns.
- If the court orders support, the worker shall complete the Interim Application for Child Support Enforcement Services and submit it to the district DCSE office **within five (5) days** of the hearing. If the worker is able to complete the full [Absent Parent/Paternity Information Form](#) and submit it to the district DCSE office **within five (5) days**, the Application for Child Support Enforcement does not have to be submitted to DCSE. A copy of the Absent Parent/Paternity Information Form submitted to DCSE should be provided to the benefit programs specialist at the time of the title IV-E screening (see [Section 4.7.6](#)).

#### 4.7.3 Responsibility of service worker in securing support for children

The service worker is responsible for identifying the absent parent(s) and completing the [Absent Parent/Paternity Information Form](#) to provide information to DCSE staff regarding the absent parent(s) for whom paternity will be established and from who support will be pursued. One form shall be completed on each parent regardless of whether they are living together or apart. The information on the form should be accurate and up-to-date. The Absent Parent/Paternity Information Forms shall either be submitted to DCSE **within five (5) days** of the court hearing ordering support or to the benefits program specialist at the time of the title IV-E screening. The service worker shall also provide DCSE a copy of the court order addressing custody or placement and support or the non-custodial agreement.

- When children are placed in foster care through non-custodial agreements, the service worker is responsible for referring the case to DCSE at the time of the title IV-E referral.
- The service worker shall keep a copy of all support information and forms in the foster care record.
- As soon as there are changes in the status of the foster care case or in the situation of the absent parents, the service worker shall notify the benefits program specialist in writing. Status changes include a change in goals, the need to claim good cause in an existing case, the need to withdraw a good

cause claim, and closing the foster care case due to the child exiting to permanency.

#### 4.7.4 Claiming good cause

Claiming good cause results in the case not being pursued by DCSE for collection of support. The service worker *should strongly consider filing good cause* for the parent or parents to whom the child is to return when the foster care plan has the goal of returning the child to the parent(s) and collection of support will interfere with achieving that goal.

*The LDSS should consider applying an across-the-board policy to determine when to claim good cause rather than claiming on a case-by-case basis.* For example, a good cause claim may be made when the parent(s) possess such limited financial resources that support collection would interfere with the parent(s)' ability to meet conditions set forth in the foster care service plan or delay the reunification process. Homelessness, living in substandard housing, participation in full-time mental health programs or programs for the treatment of a substance use disorder, or serious illness are situations that could result in a good cause claim.

A good cause claim is not made for the parent to whom the child will not be returned unless that parent signs a permanent entrustment agreement for the purposes of adoption or parental rights have been terminated.

The service worker has the following responsibilities in claiming good cause:

- If the service worker believes that the collection of support will interfere with the goal of returning the child home, the worker should inform the court at the hearing where child support is addressed of those specific concerns. The court will determine the support amount.
- If good cause is claimed, the worker indicates the reason for claiming good cause when completing the Absent Parent/Paternity Information Form.
- If, after the court has ordered support or DCSE has determined a support amount and the support collection interferes with the goal of Return Home, the worker may stop the support collection by claiming good cause. The [Good Cause Determination Form](#) is located on the DSS internal website.

The worker completes the [Good Cause Determination Form](#) for each parent for whom good cause is claimed. The form is submitted to the benefits program specialist who is responsible for forwarding it to DCSE. DCSE will stop pursuing support once good cause is claimed. For those cases where support is court ordered, DCSE regulations allow the LDSS to claim good cause without obtaining court permission. The LDSS should consult with its court to determine whether the court wants to approve changes in court ordered support or be notified when the LDSS claims good cause.

- If the court has determined at the initial hearing that support collection will interfere with goal of Return home and has ordered that the parent(s) pay no support, the LDSS shall petition the court to order support when the parent(s)' situation improves and the collection of support no longer interferes with the goal of Return Home.
- Once good cause is claimed, the service worker is to notify the benefits program specialist in writing whenever changes are known that would eliminate good cause.

#### **4.7.5 Identifying the absent parent**

The service worker shall diligently search for absent parent(s) and encourage them to connect, support, and maintain involvement with the child, consistent with the child's safety, best interests and personal desires. For information on searching for absent parents, preparing the child for the search, and notifying and engaging the family, see [Section 2](#), Engaging the Child, Family and Significant Adults of the Foster Care Chapter.

For the purpose of foster care, "absent parent" is any person or persons whose parental rights have not been terminated who is required under law to support the child in custody of or placed with an LDSS or public agency designated by the CPMT.

The "absent parent(s)" may be the birth parent(s) including the putative father or the legal parent(s). A prior custodian is not required under law to support a dependent child.

#### **4.7.6 Completing the Absent Parent/Paternity Information Form**

Information on the birth or legal parent(s) is needed on the Absent Parent/Paternity Information Form in order to pursue support; including

- Names and addresses.
- Birth dates.
- Social Security numbers.
- Name and address of employers.
- Names of parents and emergency contacts of the absent parent(s).

The [Absent Parent/Paternity Information Form](#) is located on the DSS internal website.

Title IV-E children are mandated to receive full DCSE services upon referral. The service worker shall request full DCSE services for non-title IV-E children unless good cause is claimed. The service worker shall check statement (A) requesting all services offered by DCSE on the Absent Parent/Paternity Information Form, Section II: Child Support Enforcement Services for Medicaid Recipients.

#### **4.7.7 Responsibility of benefits program specialist**

The benefits program specialist is responsible for ensuring that information provided by the service worker is provided to DCSE for the title IV-E eligible child. The Medicaid worker is responsible for forwarding the Absent Parent/Paternity Information Form to DCSE for non-title IV-E children.

The benefits program specialist is responsible for notifying DCSE of any changes that affect the good cause claim. The service worker is responsible for evaluating whether good cause exists.

#### **4.7.8 Responsibility of the Division of Child Support Enforcement**

DCSE will ensure the establishment of paternity where necessary, the establishment of a child support order where none exists, the establishment and enforcement of health care coverage, and the collection of support for children upon receiving the referral where good cause does not exist.

#### **4.7.9 Notice of changes affecting child support**

As soon as there are changes in the status of the foster care case or in the situation of the absent parents, the service worker shall notify the benefits program specialist in writing. The benefits program specialist shall notify the Division of Child Support Enforcement. Changes in the status of a foster care case or the absent parent's situation may include the following:

- Good cause no longer exists because the service plan goal for the child changes from the goal of Return to Parents to another goal.
- Parental rights are terminated or the parent(s) have signed a permanent entrustment agreement.
- The child is emancipated or becomes age 18.
- The whereabouts of the child are unknown.
- Death of the child.
- The child is returned to a parent who is a recipient of TANF.
- The foster care case is closed.

The service worker will inform the benefits program specialist about the status of good cause for not pursuing child support, where appropriate.

## 4.8 Arranging visitation with parent(s) or prior custodians

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Efforts to maintain contact with the parent(s) or prior custodians in accordance with the needs of the child shall begin as soon as the child is placed in foster care.

The child and parent(s) have the right to visit and maintain communication with each other, unless visitation has been restricted by the court ([§ 63.2-912](#)).

At the time a child is placed in foster care, the service worker shall encourage visitation and arrange with the parent(s) a mutually agreeable plan for visitation and other communication such as phone calls, email, and letters.

Frequent and meaningful visitations:

- Maintain and improve the parent/child relationship which facilitates reunification.
- Are the principal and often only means of maintaining, improving, or developing the child's relationship with their parent(s).
- Provide the opportunity for parent(s) to improve their parenting skills and to demonstrate their ability to care for their child.
- Provide the service worker the opportunity to observe and to evaluate the strengths and the weaknesses of the parent-child relationship. Information may be gathered about the level of commitment of the parent, and the reactions of the child may be observed. This information may be used to assist the service worker in making decisions on the most appropriate permanent plan for the child.

Note: Visitations should never be limited or denied due to a child's inability or lack of motivation to progress in a placement program's treatment process. Additionally, while sobriety during visits is critical, a positive drug screen at any point in the life of the case should not be the sole basis for suspending or cancelling a visit.

### 4.8.1 Visitation plans

See [Section 6.2.2.2](#) and [Section 8.6](#) of this chapter, for visitation and communication service requirements when children are first placed in foster care and the goal is reunification.

Visitation plans shall be in the best interest of the child including consideration of safety, permanency and well-being outcomes. The visitation plan shall be a written plan and addressed in the foster care plan. It should include the structure and logistics of the visits. The plan shall be documented in OASIS; it should be documented within **five (5) days** of the child's entry into foster care.

The service worker should develop the visitation plan with the parents and the caretakers. It is appropriate for this plan to be discussed and developed during a Family Partnership Meeting, team decision making meeting, or child and family team meeting.

The frequency and duration of the visits should be addressed in the visitation plan. Also, included in the plan should be the location of visits. The following criteria should be used:

- Least restrictive, inclusive setting with consideration given to the culture and social patterns of the family.
- In the child's community whenever possible.
- A setting that is age appropriate and ensures the safety of the child.
- In the agency's office when necessary for the protection of the child or to allow for support before, during or after the visit.

Visitation should occur frequently and in a positive, natural setting. Service workers should be creative in implementing visitation to assure frequent and positive visitation. Limiting visits to what is convenient for the agency limits the agency's knowledge of the parent's ability to learn and demonstrate how to care for their children. Possibilities for visitation are listed below but are not limited to the following:

- Visits in the foster home. These types of visits allow the parents to observe a positive approach to parenting, allows the child to view all the people that care for them as allies, and has the potential to develop a long term mentoring resource for the biological parent.
- Schools and daycares. Most schools today encourage parents to enjoy lunch with their children or visit the daycare. These types of visits allow the parent to observe and be a part of a child's life and have positive interaction with the teacher or day care provider.
- Medical and dentist appointments. These types of visits provide parents an opportunity to take responsibility for the medical and dental concerns of their child.
- Visits outside of the agency. Parks, playgrounds, fast-food restaurants or other places that provide a more natural setting for normal parent/child interactions.
- Use of web based video conferencing (Skype) and phone calls. Other types of contact should be considered if distance between parent and child is a barrier to frequent face to face visits.

#### **4.8.2 Levels of supervision during visits**

The service worker should determine the level of supervision for parent/child visits based on the identified safety threats. Three levels of supervision are recognized in practice:

- Supervised visits require another adult approved by the LDSS to maintain line of sight and sound supervision and intervene as needed.
- Monitored visits require another adult approved by the LDSS to periodically observe and intervene as needed.
- Unsupervised visits require the parent to be the primary caregiver and be willing and able to safely care for the child.

The visitation plan should document the reasons for the level of supervision.

#### **4.8.3 Visitation observations**

The service worker and/or visitation supervisor should observe and document in OASIS the following during visits:

- Who participated.
- How long did the visit last.
- How did the parent greet the child and the child respond to the parent.
- What was the interaction between the child and the parent.
- What activities took place or how the time was spent.
- Did the parent set limits and/or discipline the child.
- Did the parent pay attention to the child's needs.
- Was affection displayed between the parent and the child.
- Was the service worker required to intervene.
- How did the parent and child separate.

#### **4.8.4 Reviewing visitation plans**

The service worker has an obligation to preserve the child's relationship with the parents and family. Any changes to the visitation plan (limiting or terminating) should be discussed with the family, and the written visitation plan should be updated and provided to the family.

Reviews of the visitation plan should take place when:

- There is an increase or decrease in safety threats.
- Change in the permanency goal.
- Change in the well-being of the child.

Conditions that may support a change in the visitation plan to increase the frequency and duration of visits, or reduce the level of supervision required include consistently positive contact between parent(s) and child; therapist recommending increased contact; and parental compliance with treatment and progress towards service plan goals.

Conditions that may support a change in visitation plan (limiting or terminating contact) may include:

- Therapist recommends decreasing or suspending visitation due to the child's reactions to the visits.
- The child is at risk of physical or emotional harm.
- The supervisor/monitor of the visits is threatened.
- If the parent appears intoxicated or under the influence, the visit will be stopped immediately, but may resume after a review of the visitation plan.
- The court adopts a permanency goal other than reunification.
- It may be necessary to limit contact for the protection of the child if custody was obtained due to physical or sexual abuse.

#### **4.8.5 Visitation with parents struggling with a substance use disorder**

In cases where parental substance use is a factor which contributed to the child entering foster care, it is critical that the service worker complete an ongoing assessment of the family and make service referrals when necessary. Due to the recovery timeline for a substance use disorder, it is essential that parents are referred to treatment immediately. Drug or alcohol dependence disorders should be acknowledged as a medical condition that can be effectively treated. Research indicates relapse is a common part of recovery; therefore, service workers should help support children and parents through the challenges that may arise in the recovery process.

Regular visitation with parents is essential to maintaining the connection between the parent and child and necessary for any progress to be made towards reunification. This is also the case for children whose parents are facing challenges

with a substance use disorder. Additionally, visitation can potentially serve as motivation for parents who are working on maintaining their recovery.

A positive drug screen at any point in the life of the case **should not** be the sole basis for suspending or cancelling a visit; however, service workers may use information from the drug screen to help inform their decisions around supervision or location of the visitation. Service workers shall complete ongoing assessments to ensure child physical and/or emotional safety. Service workers may arrange a meeting with the parent prior to the visitation to assess and address child safety and to help support the parent with the visit. If a parent arrives for a visit and appears to be under the influence of a controlled substance and/or alcohol, the visit should be terminated. Prior to the next visit, the service worker should reevaluate the visitation plan with the parent, including current safety issues and how those safety issues will be addressed.

Service workers should:

- Acknowledge the child and parent's rights to visit and maintain communication with each other, unless visitation has been restricted by the court.
- Support regular visitation between child and parent, even if visitation must continue to be supervised.
- Commit to ongoing assessment of visitation with parent and child to promote child safety/reduce risk of future harm and reevaluate the visitation plan as necessary.
- Conduct ongoing assessments that acknowledge the parent's progress and includes a supportive timelines for parent recovery.
- Offer services to parents that will help them achieve reunification as long as that is the goal.

## 4.9 Obtaining medical and dental exams

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The service worker shall ensure:

- The child receives a medical evaluation **within 72 hours** of initial placement in foster care, when conditions indicate such an evaluation is necessary ([22 VAC 40-201-50 C](#)). When the child has urgent health, mental health, or substance use needs upon entering foster care, the service worker shall immediately, refer the child to a licensed health or mental health professional for an appropriate evaluation to be completed within 72 hours.
- The child receives a medical examination **no later than 30 days** after initial placement in foster care ([22 VAC 40-201-50 C](#)). The provider shall be a Medicaid

provider for the Medicaid eligible child or a provider covered by the child's health insurance.

- The child receives a dental examination within 60 days of entry into foster care if the child has not received an examination within the past six (6) months. Children in foster care shall receive a dental examination beginning at six (6) months of age or when they get their first teeth whichever is later, and every six months thereafter. This schedule is based on guidelines by the American Academy of Pediatric Dentistry, the American Dental Association, and the American Academy of Periodontology. For Medicaid enrolled children, this schedule is in accordance with DMAS' Smiles for Children Program.

Medical examinations are provided in accordance with the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, whether or not the child has Medicaid coverage. EPSDT is a comprehensive and preventive child health program for individuals under age 21 through the Medicaid program (see [Section 5.9.3](#) of this Chapter).

The service worker shall document in OASIS and the foster care paper case record that the medical and dental examinations were obtained for the child as required. Documentation shall include the date, type of examination, name and address of health care provider, results, and any follow-up instructions. The service worker should use the health information screens in OASIS to document this information.

#### **4.10 Referral for services**

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The service worker is responsible for referring the child and family to appropriate services identified through conducting a comprehensive child and family assessment (see [Section 5](#) of this chapter) and developing a foster care plan (see [Section 15](#) of this chapter). The initial assessment and referral for services should occur as quickly as possible once the child enters care in order to address the issues that resulted in foster care placement and to expedite a timely exit to a permanent family.

#### **4.11 SSI and other potential benefits**

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The service worker is responsible for determining all financial resources available to the child, including SSI, other governmental benefits, and private resources.

The service worker is also responsible for assessing whether a child in care may be eligible for other benefits and referring that child for eligibility determinations. These referrals should be made **within the first two (2) weeks** of placement (e.g., title IV-E, Medicaid) or when the information gathered through the ongoing assessment indicates that the child may need, and qualify for, other benefits (e.g., SSI).

#### 4.11.1 Eligibility for Supplemental Security Income (SSI) for children

An application for SSI should be considered if a child shows significant deficits for their age in cognition, communication, motor skills, social skills, personal/behavioral development, or concentration in combination with any of the following:

- Requires special education placement;
- Experiences chronic illness or repeated surgeries;
- Had low birth weight;
- Assessed and determined to be three years or more below grade level;
- Misses excessive school due to medical, psychological, or behavioral problems;
- Has one of the following diagnoses: organic mental disorders; schizophrenia, delusional, schizoaffective, or other psychotic disorders; mood disorders; mental retardation; anxiety disorders; somatoform, eating, and tic disorders; personality disorders; psychoactive substance dependence disorders; autistic disorder; attention deficit disorder; or developmental and emotional disorder of newborn and younger infants;
- Receives multi-disciplinary therapies; i.e., speech, physical, occupational, psychological, etc.;
- Requires highly supportive or structured settings to function;
- Requires adaptations (wheel chairs) for mobility;
- Has a condition which will be fatal within a year;
- Has complete or marked inability to stand or walk;
- Requires intensive supports in the community and at home to function independently within age appropriate norms;
- Has had more than five foster home placements due to difficulty of care;
- Has major congenital organ dysfunction that may lead to death if not surgically corrected by age 1;
- Has marked restriction in performing activities of daily living; or

- Has a history of placement in treatment foster care, group homes, or residential treatment facilities due to medical, psychological, or behavioral reasons or need for intensive support services.

#### 4.11.2 Representative payee

For children in foster care, the LDSS will generally serve as the representative payee for a child receiving Social Security benefits. As representative payee, the LDSS will receive the benefits and is responsible for ensuring that benefits are used to meet the needs of the child and accounting for the use of funds.

The Social Security Administration provides an online [Guide for Organizational Representative Payees](#) on its website.

*When the LDSS serves as the representative payee for a child receiving benefits from the Social Security Administration or the U.S. Department of Veteran's Affairs, the LDSS shall provide written notice, in person or by certified mail, that it is acting as the child's representative payee. The notice must be provided to the following parties within 30 days of receiving the first benefit payment of behalf of the child.*

- *The child, if the child is 12 years of age or older*
- *The child's parent, prior guardian, prior custodian, or if there is no legal parent or prior guardian or custodian, the child's next of kin;*
- *The guardian ad litem, if applicable;*
- *The counsel appointed for the child; if applicable*

#### 4.11.3 Special welfare accounts

When a child leaves foster care, all unspent funds paid to the child from the Social Security Administration, and placed in the special welfare account, shall be returned to the Social Security Administration, including SSA/SSI savings, other investments, and interest earned on the funds.

If the child in foster care has remaining unspent funds other than saved SSA/SSI benefits upon leaving custody of the LDSS, they shall be paid to the child or the parent or guardian, in accordance with [§ 63.2-314](#) Code of Virginia.

When a child receives a retroactive lump sum SSI payment, the LDSS shall establish a Special Welfare Account for the child and may only expend the funds in accordance with requirements as determined by the Social Security Administration (see [Section 4.11.4](#)).

#### 4.11.3.1 Using funds from special welfare accounts

All recurring monthly benefits, including SSI, SSA, and Veterans Affairs, for the child are to be placed in a special welfare account in the name of the child to be used for expenses on behalf of the child. For more information on the [special welfare account](#), see the VDSS Finance Guidelines Manual.

- Accumulated funds in a special welfare account may be used to meet the current and future needs of the child (§ [63.2-320](#)). These funds are to be used to reimburse expenditures on behalf of the child for maintenance, medical expenses not covered by Medicaid, and services.
- Funds in excess of those used to reimburse expenditures for the child are to be used for savings for the child or for the personal needs of the child. The worker, in consultation with the parents and foster parents, is responsible for identifying how these excess funds are to be used.
- For title IV-E eligible children, the resource maximum for title IV-E has increased to \$10,000. Children in foster care may accumulate combined resource/funds to a maximum of \$10,000 before becoming ineligible for title IV-E.
- For non-title IV-E children, the limit has not changed. If funds accumulate in excess of \$2,000 in an account, the child may become ineligible for SSI and non-title IV-E Medicaid.
- If the LDSS cannot maintain a child's special welfare account below the resource level, it can establish an irrevocable trust account. This irrevocable trust account will allow resources to accumulate over the resource level, while not making the child ineligible for future benefits.

The LDSS should consult with an attorney to ensure the irrevocable trust accounts are set up properly. The trust fund shall have a maturity date restricted to a birth date or date of custody transfer from the LDSS. Under no circumstances can the child or LDSS have access to the trust funds prior to the maturity date.

The size of the trust fund may affect the child's eligibility for title IV-E, Medicaid, and SSI. The worker should consult with benefits program staff when establishing a trust fund regarding the amount of funds in the trust.

#### 4.11.4 Lump sum retroactive SSI payments

When a child receives an initial retroactive lump sum SSI payment and the retroactive amount covers more than six (6) months, the LDSS shall establish a separate "dedicated account" in a financial institution as per the [finance guidance manual, section 3.50](#), for the initial lump sum payment and keep these funds

separate from the child's other resources. These funds do not count as income to the individual/child.

The LDSS shall not spend the lump sum funds to reimburse maintenance costs. (Only ongoing monthly SSI payments may be used to reimburse maintenance costs). Lump sum funds of greater than six (6) months may be used only for medical treatment, education, or job skills training if related to the child's impairment, personal needs assistance, special equipment, housing modification, therapy or rehabilitation, or other items or services as SSA deems appropriate. Other items have been defined as the following:

- Specialized child care or special education not included in the child's special education program.
- Food and veterinary care for a guide dog.
- Repair of walls, carpets, or furnishings that have been damaged by a child with a mental impairment.
- Counseling, crisis intervention, respite, or treatment foster care services not covered by health insurance or public service program.
- Repayment of a past debt, including reimbursement of a creditor payee, if the items or services provided were related to the child's impairment and benefited the child.
- Personal aids to facilitate living and learning, such as assistive technology for communication and mobility, modified instructional materials, and specialized transportation.
- Special food for children with dietary needs or diapers for older, incontinent children.
- Increased electrical bills resulting from needed mechanical devices that constantly run.

Impact on eligibility for other resources: accumulated retroactive funds in dedicated accounts do not affect SSI eligibility. The child's title IV-E eligibility may be affected if the child is not SSI eligible when the retroactive benefits are received.

The LDSS should obtain approval from their local SSA office regarding reimbursement of expenditures from the retroactive lump sum payment if they have questions about the appropriateness of a reimbursement. The LDSS is held liable for these funds if they are not used in accordance with the Social Security Administration guidelines. The LDSS will be required to reimburse SSA for the misappropriation of any funds identified by the SSA from the dedicated account.

#### 4.11.5 Other governmental benefits to which child may be entitled

The child may be entitled to certain benefits because of the death or disability of a parent. These include Veterans Affairs (VA), Social Security (SSA), Railroad Retirement, etc.

The Social Security Administration provides information on the types of benefits and eligible children at Social Security Benefits: [Understanding the benefits](#). The service worker should contact the local Social Security office to confirm if a child may be eligible for social security benefits.

The child may be eligible for medical services under the Champus/Tricare program, if a parent is in military service.

#### 4.12 Setting up payment process for providers

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The service worker is responsible for ensuring that the foster parents and other service providers receive appropriate and timely payments. Timely payments should be made within the month following the month when services were provided to a child. Other local policies and procedures related to payment should be explained to the provider.

#### 4.13 Credit Freezes

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Beginning July 1, 2019, when a child who is less than 16 years of age has been in foster care for six months, the LDSS shall request the placement of a credit freeze. The service worker shall submit the written credit freeze request and required documents to the credit reporting agencies (CRAs) via certified mail within the thirty (30) day window of the child's six-month anniversary in foster care. Written request forms and documentation requirements vary according to the procedures established by each CRA. For additional information, see Credit Freezes for Children and Youth in Foster Care.

After a credit freeze request has been submitted and processed, the service worker will receive confirmation from each CRA via mail. CRA confirmation letters will contain a unique personal identification number (PIN) assigned to the child for whom the security freeze was requested. The PIN shall be maintained in the hard copy of the child's case file. The service shall document credit freeze placement activities in the contact screen through OASIS using "Credit Freeze" as the purpose of the contact. Copies of the written credit freeze request and all CRA confirmation letters and communications shall be maintained in the hard copy of the child's case file.

The LDSS shall request the removal of the credit freeze upon:

- The child's removal from foster care.
- The child's request if the child is 16 years of age or older.

- A determination by the LDSS that removal of the credit freeze is in the best interest of the child.

Credit freeze removal requirements are further outlined in [Section 19.7](#).

#### **4.14 Starting a Lifebook**

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A Lifebook is important for children entering foster care. Children entering foster care leave behind everything that is known and familiar and often lose tangible memories. A Lifebook gives them a connection to who they are and where they came from in an immediate, organized format. Starting and maintaining a Lifebook gives a child an opportunity to recognize their identity. A Lifebook is a scrap-book like creation that records a child's life, how they entered foster care, their experiences with different families, and their feelings along the way. Lifebooks are unique in that they document the journey, both good and bad. This book records the love shared by birth families, their foster families, and other people that pass through their lives.

To start a Lifebook, the service worker, birth family, foster family, and child should immediately began to contribute or collect pictures of birth family, foster family, friends, certificates, awards, high-scoring exams, ticket stubs, and other mementos which can be included. A Lifebook is specific and special to that child, so include any items that the child would like to include. Even though a child may be reluctant in working on a Lifebook, services workers, birth families and foster families should never stop collecting memories for the child. Additional information about Lifebooks can be found in [Section 9.5.3](#) of the chapter.