

Par.1. **Material Transmitted and Purpose** –Transmitted with this Manual Letter are changes to Service Chapter 447-10, formerly referenced as the ~~IV-E Foster Care Eligibility~~ manual. The manual chapter has been re-named to "**Foster Care Eligibility**" manual. This manual letter is renaming the manual as well as adding outstanding policy issuances to the online manual to easy online viewing.

Overview of Outstanding PI's manualized:

- **PI 13-06:** Application and IV-E Documentation
  - Role of DJS 447-10-30-05
  - Role of County Social Service Board 447-10-40-10-05
- **PI 13-17:** Transfer Child to Tribal Agency
  - Role of County Social Service Board 477-10-40-15-05
- **PI 16-41:** Change Form
  - Notice of Change Form, SFN 45, 447-10-70-40
- **PI 17-10:** Unemployed/Underemployed
  - AFDC Relatedness Test 447-10-20-15-05
- **PI 17-14:** Relocating Emergency Assistance from 623-05 to 447-10
  - Foster Care Funding Sources 447-10-05-05 (New #)
  - Emergency Assistance Services 447-10-11 (NEW#)
  - Initial Eligibility 447-10-20
  - Emergency Assistance Eligibility 447-10-20-25 (New #)
  - Emergency Assistance Application Restrictions 447-10-20-25-05 (New #)
  - Regular Foster Care Eligibility 447-10-20-30 (New#)

### PI 13-06

#### **Role of DJS 447-10-30-05**

When financial assistance is needed to provide foster care payments, the parent(s), person or agency legally responsible for the financial support of the foster child or children needing foster care will make application on SFN 641, Title IV-E/Title XIX Application-Foster Care. The Division of Juvenile Services (DJS) is responsible to provide the county eligibility staff with all individual and family information (including copies of court orders, income,

assets, determination of deprivation and other AFDC related requirements) regarding a child so a proper determination of Title IV-E eligibility may be made. The eligibility staff determines eligibility but DJS must provide the necessary documentation.

Every attempt should be made to provide the Administrative County with a timely application. Documentation needed to determine Title IV-E eligibility and reimbursability must be received by the Administrative County within 45 days of receiving the application for foster care. If the information is not received within 45 days, the application will be considered incomplete and closed. Retroactive payments in excess of 90 days are not allowed. For the purposes of initial payment, foster care expenses in excess of 90 days from when all documents are received by the administrative county to determine eligibility would not be eligible for reimbursement.

#### **Role of County Social Service Board 447-10-40-10-05**

When Title IV-E financial assistance is needed to provide foster care payments, the parent(s), person or tribal agency legally responsible for the financial support of the foster child or children needing foster care will make application on SFN 641, Title IVE/ Title XIX Application-Foster Care. The tribe is responsible to provide the county eligibility staff with all individual and family information (including copies of court orders, income, assets, determination of deprivation and other AFDC related requirements) regarding a child so a proper determination of Title IV-E eligibility may be made. The eligibility staff determines eligibility, but the tribe must provide the necessary documentation.

Every attempt should be made to provide the Administrative County with a timely application. Documentation needed to determine Title IV-E eligibility and reimbursability must be received by the Administrative County within 45 days of receiving the application for foster care. If the information is not received within 45 days, the application will be considered incomplete and closed. Retroactive payments in excess of 90 days are not allowed. For the purposes of initial payment, foster care expenses in excess of 90 days from when all documents are received by the administrative county to determine eligibility would not be eligible for reimbursement.

#### **PI 13-17**

#### **Role of County Social Service Board 477-10-40-15-05**

The county social service board is responsible to make all foster care payment financial arrangements and determinations of eligibility for any foster child under the legal custody of the Division of Juvenile Services in accordance with NDDHS Service Manual Chapters 447-10 and 623-05. All efforts should be made to secure Title IV-E eligibility.

For children who are Title IV-E eligible, the proper match symbol is NA.

For children who are not Title IV-E eligible, the proper match symbol is NR. This applies to children under the custody of the Division of Juvenile Services only.

Federal regulation, 45 CFR 1356.67 mandates that each state with a Title IV-E plan approved under section 471 of the Social Security Act must establish and maintain procedures, in consultation with Indian tribes, for the transfer of responsibility for the placement and care of a child to a tribal Title IV-E agency, or an Indian tribe with a Title IV-E Agreement. The transfer of a child's case should not affect the child's eligibility, receipt of services, or payments under Title IV-E or the Medical Assistance program operated under Title XIX.

The tribe of an Indian child has the right to intervene at any time in a child custody proceeding in State court. Upon the transfer of a child from state court to tribal court, county agencies should follow current procedures or develop procedures, in consultation with the tribe, that ensure the following:

1. Title IV-E is established at the time of transfer, if it has not already been determined.
2. Essential documents and information necessary to continue a child's eligibility under Title IV-E and Medicaid programs under Title XIX are provided in a timely manner to the tribal Title IV-E agency, or an Indian tribe with a title IV-E Agreement, including but not limited to:
  - a. All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts to prevent removal and return the child home were made, and that reasonable efforts have been made to place siblings in the same home or provide for frequent visitation or other ongoing

- interaction between siblings when it is not possible to place them together;
- b. Other documentation the county social service agency has that relates to the child's Title IV-E eligibility;
  - c. Information and documentation available to the county social service agency regarding the child's eligibility or potential eligibility for other federal benefits;
  - d. The case plan, including the child's health and education records; and,
  - e. Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

**PI 16-41****Notice of Change Form, SFN 45, 447-10-70-40**

The Notice of Change, SFN 45, is a required form which must be completed by the foster care case manager when changes occur in the child's case; including placement, foster care status, and parent information.

The intent of this form is to quickly update/alert the eligibility worker to make payment authorization adjustments accordingly. Overpayments will occur if the eligibility worker is not notified by the foster care case manager of a placement/status change.

Eligibility staff must forward a copy of the completed form to Child Support if there is a change in health information or parent information.

**PI 17-10****AFDC Relatedness Test 447-10-20-15-05**

**This section applies to Title IV-E benefits only.**

A child meets the AFDC relatedness test if one of the following conditions is met:

- The child would have been eligible for AFDC based on July 16, 1996 rules; or
- The child did not live with the AFDC specified relative in the eligibility month\*, but did live with the specified relative in any of the preceding six months and would have received AFDC in the eligibility month if he/she had been living with the specified relative and an application had been made.

\* based on July 16, 1996 rules.

Both tests require that you look at the home from which the child was legally removed. The removal home for IV-E eligibility determination is the household of the person(s) from whom custody of the child was judicially taken or voluntarily given to the State.

To be IV-E eligible, a child must have lived with a parent or other specified relative at some point in the preceding six months of the month of the initiation of court proceedings to remove the child. The "living with" and "removal from" requirements have to be satisfied by the same specified relative. If a child lived with no relative during this period, the child is not IV-E eligible during the entire episode of foster care.

The second test requires reconstruction of the child's situation in the eligibility month to determine whether AFDC eligibility was possible. In essence, the tests measure the same set of categorical circumstances in which the child found himself. In the first test those circumstances were actually documented; in the second, the agency must attempt to determine retrospectively whether those circumstances existed.

To determine the preceding period to be considered, first identify the date on which the petition to remove the child was filed. (Note that this may differ from the "clocked" petition date.) In the event that no petition was submitted, use the date of the earliest court order, which removes the child. Beginning with the month preceding this date, count back six months. The period begins on the first day of that six-month period and ends on the petition date.

Three circumstances which define AFDC eligibility (or hypothetical AFDC eligibility) are the following for Title IV-E purposes:

1. Living with a Specified Relative

During the month(s) under consideration, the child must have lived with a specified relative. A specified relative is defined as:

- a. Any relation by blood (including half-blood), marriage, or adoption who is within the fifth degree of kinship to the dependent child.

The caretaker relative must therefore be a parent (1st degree), grandparent (2nd degree), sibling (2nd degree), great-grandparent (3rd degree), uncle or aunt (3rd degree), nephew or niece (3rd degree), great-great grandparent (4th degree), great-uncle or aunt (4th degree), first cousin (4th degree), great-great-great grandparent (5th degree), great-great uncle or aunt (5th degree), or a first cousin once removed (5th degree).

- b. Stepfather, stepmother, stepbrother, and stepsister.
- c. Persons who legally adopt a child, as well as the natural and other legally adopted children of such persons; or
- d. Spouses of any persons named in the above groups even after the marriage is terminated by death or divorce.

A child is considered to have been "living with" a parent or other specified relative if the child resided with that person for at least one night in any household during the period under consideration. In the absence of evidence to the contrary, the intent to live with the person should be assumed.

**EXAMPLE A:**

The petition is filed for placement of a child on July 31, 2004, and the child went into foster care on that day. The period to be considered for the "living with" requirement is January 1, 2004, through July 31, 2004. The child lived with friends for the month of January, returned to the parental home in February, and then a runaway shelter until the child's placement in foster care. Since the child resided with the specified relative within six months of the petition to the court that led to the removal, the child may be IV-E eligible, assuming other IV-E conditions are met.

**EXAMPLE B:**

The petition is filed for placement of a child on July 31, 2004, and the child went into foster care on that day. The period to be considered for the "living with" requirement is January 1, 2004, through July 31, 2004. The child lived in a runaway shelter continuously from December 25, 2003, through July 31, 2004. This child is not IV-E eligible during the entire foster care episode, which commenced July 31, 1999.

**EXAMPLE C:**

A child lives with a related caretaker who is not the child's legal guardian for seven months before the caretaker contacted the agency to remove the child from his/her home. The agency petitions the court and the court removes custody from the parents and the agency physically removes the child from the home of the related caretaker. The child is ineligible for IV-E foster care since he or she had not lived with a specified relative who is the child's legal guardian within six months of the agency's petition to the court.

**Removal home:**

Once the "living with" requirement is established, the next step is to determine the removal home to be used in the deprivation and resource test for AFDC relatedness. The applicable court order(s) are critical for determining the removal home; it is the legal home of removal which is the focus of the IV-E eligibility determination. All of the signed court orders pertaining to each case must be in the case file.

Federal regulations effective March 27, 2000, revised the requirements of a "removal home" to include a provision for "constructive removal," defined to include all of the following:

- Non-physical removal of the child.
- The child continues to live with a relative or non-relative caretaker.
- The child lived with a parent or other "specified relative" within the preceding six months.
- The legal custody of the child was removed from a parent or other "specified relative."

"Removal" previously meant strictly a physical removal from the home of a specified relative. The new federal regulations effective March 27, 2000, added the concept of "constructive removal," which is a non-physical removal and applies to situations where a child is living with a relative or non-relative caretaker but has lived with a parent or other specified relative

who is the child's caretaker within the last six months, and legal custody is removed from the parent/guardian and the child continues to reside with the caretaker.

For example, child was living with mother. Mother left child with grandmother – mother failed to return. Court removed custody from mother and gave care, custody, and control to county social services. Court order had all requisite foster care findings and all other IV-E requirements were met. Grandmother was licensed to provide foster care. This is a IV-E eligible situation. It is considered a constructive removal.

Federal Regulations provide (1356.21):

A removal has not occurred in situations where legal custody is removed from the parent or relative and the child remains with the same relative in that home under supervision by the State agency.

A child is considered constructively removed on the date of the first judicial order removing custody, even temporarily, from the appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties.

Refer to the following chart entitled "Home of Removal" together with sample cases "Six Case Examples – Is this Constructive Removal" to help identify case situations which can be claimed as "constructive removals." Please refer your questions to the regional supervisor at your human service center, or Children and Family Services Division.

## HOME OF REMOVAL

Child		Title IV-E Old Federal Regs	Federal Regs 3/27/00	Capitola Case*
1	Lives in Court Ordered Removal Home <b>Example: Case #1</b>	N	N	--
2	Lived with no relative prior 6 months	N	N	--



	<b>Example: Case #2</b>			
3	Physical removal from eligible Court Ordered Removal Home <b>Example: Case #3</b>	E	E	--
4	Not physically removed by Court Order Lived with Eligible Court Ordered Removal Home within 6 months "Constructive Removal" <b>Example: Case #4</b>	N	E	E
5	Not physically removed by Court Order Lived with Eligible Court Ordered Removal Home over 6 months ago <b>Example: Case #5</b>	N	N	E
6	Not physically removed by Court Order Lives with relative over 6 months Court Ordered Removal Home not eligible <b>Example: Case #6</b>	N	N	

\* Capitola Case: Land v. Anderson case re: "constructive removal" – appeal pending.

### Six Case Examples – Is This Constructive Removal?

**Case #1:** Child has been legally removed from parent's custody into agency custody, with the stipulation that the child may reside in the parent's home under agency supervision until the agency decides otherwise. In other words, the child is still at home after the court ordered "legal" removal. This child was not IV-E eligible under the old rules and is not IV-E eligible under the new rules. **If child needs to enter foster care, a new court ordered**

**removal with all requisite foster care language is required. This applies to any child.**

**Case #2:** Child lived with no relative during the six months prior to the petition or court order month. Under both old and new federal rules, this case is not IV-E eligible since it does not meet the AFDC requirement of living with a specified relative in the six months preceding application.

**Case #3:** Child is physically removed from parent's or other relative's home by court order. The removal home was AFDC eligible (or would have been eligible) in the removal month. Case is Title IV-E eligible under both old and new regulations.

**Case #4:** Child was legally removed by court order from an AFDC eligible home, in which the child was not residing in the petition/court order month, but in which the child lived within the six months preceding that month. The child would not have been eligible under the old federal regulations because there was no physical removal. Under the new federal regulations, the case is Title IV-E eligible, as the new regulations consider this a "constructive" removal.

**Case #5:** This is the Capitola Land case. The court legally removed the child from an AFDC eligible home which the child had left more than six months previously. At the time of court action, the child was residing in another relative's AFDC eligible home. Under the old regulations this was not Title IV-E because there was no physical removal pursuant to the court order. The new regulations say this is not Title IV-E eligible because the child did not live with the AFDC eligible relative during the six months prior to the petition/court order month. The Land v. Anderson decision holds this case to be Title IV-E eligible. The Land v. Anderson decision of the California Supreme Court is under appeal in the federal Ninth Circuit Court.

**Case #6:** In this situation, the removal home was not AFDC eligible, but the current home where the child resides is AFDC eligible. This child is not Title IV-E eligible under the old rule (no physical removal) and not Title IV-E eligible under the new rule (constructive removal home was not Title IV-E eligible).

**NOTE:** In any case eligible for foster care, the court order must have all requisite foster care elements.

**In this section- PI CHANGE STARTS HERE under (d).****2. Deprivation**

The AFDC deprivation factor means that the child has been deprived of the support of one or both parents as the result of:

- a. Death of a parent
- b. Continued absence of parent:
  - i. Separation or Divorce
  - ii. Imprisonment
  - iii. Unmarried Parenthood
  - iv. Desertion/Abandonment.

Absence due solely to active duty in the armed forces, employment, school, or training is not deprivation. Also, if a parent is expected to return home within 30 days, deprivation is not present.

- c. Physical or mental incapacity of a parent. The incapacity must last at least 30 days and must reduce the person's ability to work or provide care for a child and must be documented in the case record.

Incapacitation may be demonstrated by any one of the following:

- i. A visually observable incapacity documented by the caseworker.
- ii. A medical report from a physician indicating that the incapacity will exist for at least 30 days and impairs ability to work or care for the child.
- iii. A parent's receipt of SSI for disability or blindness, or recognition of disability or blindness by the Veteran's Administration or Social Security Administration.
- d. Unemployment or underemployment of the principal wage earner.

A child living with both parents is deprived of parental support if the principal wage earner is unemployed or underemployed and meets requirements listed below.

**Principal Wage Earner:**

A primary wage earner must be established when both the biological or adoptive parents reside in the same household before it can be determined if the deprivation of unemployed or underemployed applies.

The primary wage earner is defined as **the** parent who earned the greater amount in the 24 month period prior to the eligibility month. ~~is the principal wage earner.~~ This parent remains the principal wage earner for as long as the child is in custody during the current custody episode.

If both parents earned an identical amount of income (or earned no income) in such 24-month period, the [agency](#) shall designate which parent shall be the principal earner.

~~To meet deprivation requirements due to unemployment, the unemployed parent must have a connection to the labor force. Connection to the labor force means that at least one for the following applies:~~

~~The principal wage earner is currently receiving, was eligible to receive, or has received Unemployment Insurance Benefits within one year prior to the eligibility month.~~

~~The principal wage earner has earned gross income of at least \$50 in each of any six quarters within a period of 13 consecutive quarters within one year prior to the quarter of the eligibility month.~~

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~~To calculate this, identify the 13 quarters prior to the eligibility month and identify in which of those quarters the principal wage earner had an earned gross income of at least \$50 for the quarter. Then take all of the quarters in which at least \$50 was earned and determine if at least six of them fell with 13 consecutive quarters.~~

~~The principal wage earner has participated in a job training program in each of any six quarters within a period of 13 consecutive quarters within one year prior to the eligibility month.~~

~~Attended, full time, an elementary or secondary school, vocational or technical training course designed to prepare the individual for gainful employment.~~

~~Attendance/participation in activities in d) above cannot be substituted for more than four of the six required quarters of work over an individual's lifetime.~~

~~To calculate this, identify the 13 quarters prior to the eligibility month and identify in which of those quarters the principal wage earner had participated in a job training program.~~

~~Then take all of the quarters in which job training applied and determine if at least six of them fell within 13 consecutive quarters.~~

~~When calculating connection to the labor force, a combination of earned income and participation in a job training program can be used to meet the six quarters requirement.~~

#### Unemployed or Underemployment of the Principal Wage Earner

~~If a child lives with both parents, the child is deprived of parental support if the principal wage earner worked less than 100 hours during the eligibility month. If employed more than 100 hours during the calendar month, the work must have been intermittent. Intermittent is defined as having worked less than 100 hours during the two calendar months immediately prior to the eligibility month and expected to work less than 100 hours the month following the eligibility month.~~

A child is considered to have a deprivation of unemployed/underemployed parent when the established primary wage earner (PWE) is:

- ~~1. Unemployed in the eligibility month and unemployed in the month prior to the eligibility month **or**~~
- ~~2. Underemployed due to intermittent work. Intermittent work is defined as the PWE is employed in the eligibility month, but worked less than 100 hours in each of the two months prior to the eligibility month.~~

~~The number of employment hours include reported hours worked and any hours claimed as holiday and sick pay hours; or if self-employed, in the absence of credible information, by dividing the gross monthly income by minimum wage.~~

~~The household income cannot exceed the 185% Standards and Net Income (Need) standard for the household size.~~

~~When the only means of income to a household is self-employment and both parents are actively involved in the business, consider both parents working more than 100 hours.~~

If the parent is on paid leave from an employer (such as sick or vacation leave), the parent is not considered to be unemployed or working less than 100 hours. Any paid hours count as employed hours.

No change made to remaining section topics.....

## **PI 17-14**

### **Foster Care Funding Sources 447-10-05-05 (New #)**

North Dakota has access to three funding sources that draw on state and federal dollars to reimburse services for a child meeting all foster care eligibility and reimbursability criteria. The funding source is determined through the initial eligibility determination process.

#### Title IV-E of the Social Security Act

- Are the primary sources of Federal Funds for State Child Welfare Services
- A portion of States' costs are reimbursed
- Title IV-E is an "Uncapped entitlement"
- Any qualifying State expenditure will be partially reimbursed, or "matched," without limit.
- Foster care maintenance costs are reimbursed at Federally determined percentage (which is now at 50%) and the remaining share is funded with 100% state sharing of non-federal funds
- Administrative and training costs can be reimbursed up to 75%
- Tribes have access to IV-E funding ONLY through state and tribal agreements.

#### Emergency Assistance

- Federal dollars under Temporary Assistance for Needy Families (TANF)
- Foster care maintenance payments are reimbursed at a rate of 75% federal and 25% state
- No additional support is available to the state for administrative or training costs
- Not available to Tribes through state and tribal agreements

#### Regular Foster Care

- Foster care maintenance payments are paid at a rate of 100% state funds
- Not available to Tribes through state and tribal agreements

A child that does not meet the eligibility criteria as outlined in policy is not reimbursable through any of the funding sources listed above. Payment for ineligible children would be the responsibility of the custodial agency or family.

### **Emergency Assistance Services 447-10-11 (NEW#)**

Emergency Assistance (EA) is an alternate funding source for children legally removed from a household that exceeds the income/asset limits under the 1996 AFDC guidelines or do not meet the deprivation requirements under Title IV-E. EA is not to be used when a child is Title IV-E eligible. All rules, policies, regulations, guidelines and other criteria pertaining to foster care remain the same.

Emergency Assistance is the provision of out-of-home care and family preservation services (including intensive in-home, parent aide, and case management work) to eligible families with children who are experiencing an emergency.

An emergency exists because:

1. A child is in out-of-home care; or
2. A child is at risk of out-of-home care; or
3. A child is the subject of a child abuse or neglect report; and
4. The emergency did not arise because an adult family member refused (without good cause) employment or training.

### **Initial Eligibility 447-10-20**

~~A child is Title IV-E eligible if two basic criteria are met when the child entered care. These are:~~ Two basic criteria apply when a child enters foster care:

1. The initial court order that authorized the child's removal from the home, contained a judicial determinations to the effect that:
  - a. "continuation in the home is contrary to the welfare of the child," and
  - b. reasonable efforts were made to prevent the child's removal from home or reasonable efforts were not required (i.e.

aggravated circumstance) to prevent a child's removal from the home; and

- c. if a sibling group, reasonable efforts were made to place siblings in the same foster care, relative, guardianship, or adoptive placement unless it is determined that such a joint placement would be contrary to the safety or well being of any of the siblings, and the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is contrary to the safety or well being of any of the siblings.
2. The child met the AFDC relatedness test in the month the court petition to place the child in out of home care was filed. (Effective July 1, 1997, wherever AFDC is mentioned here, it relates to the eligibility rules as of July 16, 1996, pursuant to P.L. 104-193.)

Eligibility staff at the County social service board should follow the steps below in determining the eligibility for a child in foster care:

1. Determine if the child is eligible for Title IV E.
2. If the child is not IV-E eligible, determine if the child is eligible for Emergency Assistance.
3. If the child is not eligible for Emergency Assistance, determine if the child is eligible for Regular Foster Care.

### **Emergency Assistance Eligibility 447-10-20-25 (New #)**

A foster child must be determined ineligible for Title IV-E funding **prior** to determining Emergency Assistance (EA) eligibility. The eligibility worker must complete the initial eligibility determination as outlined under 447-10-20.

An Emergency Assistance Service Application (SFN 38) must be completed by the parent/guardian or representative or a legal custodian to determine eligibility for EA. **When a child is in foster care, the legal custodian may make application and sign for emergency assistance.** If a family is currently receiving services such as parent aide, intensive in-home services, or case management services, an Emergency Assistance Service Application (SFN 38) may already be completed and on file in the case management service file. A copy of the current SFN 38 should be obtained from the case management service file in lieu of completing a new SFN 38 (see Emergency Assistance Application Restrictions for details).



A child must meet the following criteria to be Emergency Assistance (EA) eligible. An emergency exists because:

1. A child is in out-of-home care; or
2. A child is at risk of out-of-home care; or
3. A child is the subject of a child abuse or neglect report; and
4. The emergency did not arise because an adult family member refused (without good cause) employment or training.

In addition, the child must meet all three categories listed below:

1. The child must have lived with a parent or specified relative within the last six months prior to the foster care eligibility month or at initial placement.
2. The child or family member currently does not have sufficient resources immediately available to pay for emergency assistance services (self-declaration by the applicant).
3. The application must be made by a parent or specified relative of a child under age 21 or by a legal custodian on behalf of a child under. A child age 18, in the 18+ Continued Care Program may sign the emergency assistance application.

Foster children, who are determined eligible for EA, must have a copy of the SFN 38 Emergency Assistance Service Application in the foster care eligibility file to support the eligibility determination.

A child eligible for EA, but in receipt of SSI, is not reimbursable through EA. Regular Foster Care funds must be used to reimburse foster care expenditures in any month in which the child received SSI. Refer to section 447-10-20-20-20.

Children do not meet the Emergency Assistance eligibility if:

1. He/she meets Title IV-E eligibility criteria
2. He/she did not physically reside with a parent or specified relative during the six months prior to the eligibility month.

A child that has not physically resided with a parent or specified relative during the six months prior to the eligibility month and meets all other eligibility criteria, is not eligible for Emergency Assistance, but would be eligible under Regular Foster Care.

**Emergency Assistance Application Restrictions 447-10-20-25-05  
(New #)**

North Dakota has defined emergency assistance broadly. It is not necessary to have a separate service application each time the family receives a different service. For example, if a family received intensive in-home service for three months and then a child went into foster care, it is not necessary to have a new Emergency Assistance Service Application (SFN 38). Thus, there would only be nine months of service eligibility left for foster care. If the emergency continues, a new Emergency Assistance Service Application (SFN 38) must be completed every 365 days.

Emergency Assistance is limited to a maximum duration of 12 months (365 days), or less, per authorization period, as necessary to alleviate the emergency condition.

If the emergency has not been resolved to permit the return of the child to the home, another SFN 38, Emergency Assistance Service Application is required within 30 days of the effective date of the prior year's SFN 38 for a period not to exceed 365 days.

**Regular Foster Care Eligibility 447-10-20-30 (New#)**

A child that is not eligible for Title IV-E or Emergency Assistance because they have not lived with a relative at any time during the 6 months prior to the eligibility month and meets all other foster care eligibility criteria is eligible for Regular Foster Care.

An example would be if a child has not had contact with their biological family and relatives in the six months prior to the eligibility month and has resided with a non-relative for the entire time.

Foster care expenditures for a Title IV-E or Emergency Assistance eligible child, who is in receipt of SSI in any given month, must be reimbursed through regular foster care. Refer to section 447-10-20-20.

All of the rules, policies, regulations, and guidelines pertaining to permanency planning and other eligibility criteria for foster care remain the same.