

Child Welfare Policy Manual

Questions & Answers

8.2B.13 TITLE IV-E, Adoption Assistance Program, Eligibility, Voluntary relinquishments

1. Question: Is a child who is voluntarily relinquished to a private, nonprofit agency eligible for title IV-E adoption assistance as a child who is not an "applicable child"?

Answer: As authorized by section 473(a)(2)(A)(i)(I) of the Act, a child is eligible for title IV-E adoption assistance if s/he is removed from the home by way of a voluntary placement agreement with respect to which title IV-E foster care payments are provided, or as the result of a judicial determination that to remain in the home would be contrary to the child's welfare. However, a child who is voluntarily relinquished to either a public or private, nonprofit agency will be considered judicially removed in the following circumstances:

- (1) the child is voluntarily relinquished either to the title IV-E agency (or another public agency (including Tribes without an approved title IV-E plan) that has a title IV-E agreement), or to a private, nonprofit agency; and
- (2) there is a petition to the court to remove the child from home within six months of the time the child lived with a specified relative; and
- (3) there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

Under these circumstances, the AFDC-eligible child will be treated as though s/he was judicially removed rather than voluntarily relinquished. If the title IV-E agency subsequently determines that the child also meets the three criteria in the definition of a child with special needs in section 473(c) of the Act, the child is eligible for title IV-E adoption assistance. If, however, there is no petition to remove the child from the home or no subsequent judicial determination, the child cannot be considered judicially removed for the purpose of title IV-E adoption assistance eligibility. Furthermore, if the court merely sanctions the voluntary relinquishment without making a determination that it is contrary to the child's welfare to remain in the home, the child is not eligible for title IV-E adoption assistance.

*Note: This Q/A was previously deleted on 10/25/2017 because at the time, the phase-in for the applicable child in section 473(e)(1)(B) of the Act was complete. P.L. 115-123 amended section 473(e)(1)(B) to extend the applicable child phase-in to FY 2025, effective 1/1/2018.

- **Source/Date:** ACYF-CB-IM-01-08 (11-6-01); (03/03/2020)

- **Legal and Related References:** Social Security Act -section 473(a)(2)(A)(i)(I), (c), (e), and 479B