Child Welfare Policy Manual

Questions & Answers

8.3A.9c TITLE IV-E, Foster Care Maintenance Payments Program, Reasonable Efforts, Qualifying Language in Court Orders

1. Question: Some States have begun to use qualifying language in court orders, which restricts the purpose of the reasonable efforts findings to title IV-E funding purposes only. For example, in one State, the court annotates its orders with the phrase "for Federal funding purposes only" in order to address parental concerns that the order is entered without prejudice. Another State proposes adding language to the court order that "the title IV-E judicial determination shall not be given any effect in subsequent court proceedings." Is the use of qualifiers to the judicial determination of reasonable efforts allowable under title IV-E?

Answer: No. It is not permissible for a title IV-E agency to use such restrictive language in making the required judicial findings. When a judicial determination is qualified by language stating or implying that it has been made for the purpose of Federal funding only or that it has no precedential effect, then a bona fide judicial determination has not been made. An official notation that a finding is for a limited purpose only suggests that it must be "re-made" in order for it to become valid.

This policy is consistent with legislative history and was addressed in the preamble to the 2000 regulations, which quote S. Rep. No. 336, 96th Cong., 2d Sess. 16 (1980) and make the point that the required judicial determinations should not become "...a mere pro forma exercise in paper shuffling to obtain Federal funding..." (pg. 4056, 65 Fed. Reg.).

Court orders containing judicial determinations qualified by restrictive language such as that described above will not satisfy title IV-E eligibility requirements for Federal financial participation (FFP).

- **Source/Date:** 7/6/05; (3/2/20)
- **Legal and Related References:** Social Security Act - Sections 471(a)(15)(B), 472(a)(2)(A)(ii), and 479B