

# Child Welfare Policy Manual

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## Questions & Answers

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### 8.4 TITLE IV-E, General Title IV-E Requirements

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#### 1. Question: What is the definition of "unemployed parent" for purposes of completing the AFDC portion of a title IV-E eligibility determination?

**Answer:** The Administration for Children and Families (ACF) and the Centers for Medicaid and Medicare Services (CMS) amended the definition of "unemployed parent" at 45 CFR 233.101(a)(1) in 1998 in response to the replacement of the former AFDC program with the Temporary Assistance for Needy Families (TANF) program. Each State was required to establish a "reasonable standard" for measuring unemployment in order to determine whether an individual qualified for benefits under TANF or Medicaid and whether a child met the AFDC portion of title IV-E eligibility. The amended regulation specifically permits States to consider hours of work, dollar amounts earned, and family size in establishing the reasonable standard of unemployment.

At a minimum, States are required to include as an "unemployed parent" an individual who is employed less than 100 hours per month, or exceeds that standard for a particular month if the work is intermittent and the excess work is temporary. Such work may be considered temporary if the unemployed parent worked fewer than 100 hours in the preceding two months and is expected to work fewer than 100 hours in the following month (see 45 CFR 233.101(a)(1)). States are constrained by this definition in order to preserve Medicaid and title IV-E eligibility for any individuals who would have been eligible under the AFDC rules previously in effect (see 63 FR 42270 - 42272, August 7, 1998). States are not required to establish a broader definition of "unemployed parent" but may do so.

- **Source/Date:** 6/23/03
- **Legal and Related References:** Public Law 104-193; 45 CFR 233.101(a)(1); 63 FR 42270-42275, August 7, 1998.

#### 2. Question: Please explain the assurance requirement at section 471(a)(30) of the Social Security Act (the Act).

**Answer:** Section 471(a)(30) of the Act requires the title IV-E agency to provide assurances in the title IV-E plan that each child eligible for a title IV-E payment who has attained the minimum age for mandatory school attendance under State or Tribal law is a full-time elementary or secondary school student, has completed secondary school, or is incapable of attending school on a full-time basis, in accordance with sections 471(a)(30)(A) through (D).

Section 471(a)(30) of the Act is a title IV-E plan requirement and, as such, does not place conditions on a child's eligibility for or receipt of assistance under the foster care, adoption assistance or guardianship assistance programs. ACF may conduct a partial review pursuant to 45 CFR 1355.32(d), if necessary to determine compliance with the title IV-E plan.

- **Source/Date:** 05/29/09
- **Legal and Related References:** Social Security Act - section 471(a)(30)

**3. Question: Is the requirement at section 471(a)(30) of the Social Security Act (the Act) an annual requirement, a one time requirement when the adoption or guardianship is finalized, or an ongoing requirement?**

**Answer:** The requirement at section 471(a)(30) of the Act is not prescriptive; therefore, the title IV-E agency may determine how it will assure that the requirement is being met and the frequency of any procedures for doing so.

- **Source/Date:** 05/29/09
- **Legal and Related References:** Social Security Act - section 471(a)(30)

**4. Question: What is the definition of “relative ? for the title IV-E program?**

**Answer:** Except where the title IV-E statute directly references the definition of relative under the former Aid to Families with Dependent Children (AFDC) program, title IV-E agencies have the discretion to define the term “relative” for the purposes of title IV-E.

Specifically, title IV-E agencies must use the definition of “specified relatives” as described in section 406(a) of the Social Security Act (the Act) as in effect on July 16, 1996, and implemented in 45 CFR 233.90(c)(1)(v) for the following title IV-E foster care provision:

- Title IV-E foster care maintenance payment eligibility in part depends on whether a child would have received AFDC in the home of a “specified relative” from which the child was removed in or for the month of removal if the child has lived with the “specified relative” within 6 months of the child’s removal (see section 472(a)(3)(A) of the Act and Child Welfare Policy Manual 8.3A.11, Q/A #4).

Title IV-E agencies have the discretion to define “relative” when it is not otherwise defined by the statute, including under the following provisions:

- A title IV-E agency may define "relative" for purposes of claiming administrative costs for a limited period of time while the relative’s application for licensure or approval as a foster family home is pending, in accordance with 472(i)(1)(A) of the Act. (The child must have been removed from the home of a “specified relative” in order to be eligible for this administrative cost claiming.)

- A title IV-E agency may define “relative” for purposes of waiving non-safety licensing standards for relatives permitted under section 471(a)(10)(D) of the Act.
- A title IV-E agency has discretion to define the term “relative” for the purposes of the Title IV-E Kinship Guardianship Assistance Program. This means that the Children’s Bureau will accept a title IV-E plan or amendment that contains a reasonable interpretation of a relative, including a plan that limits the term to include biological and legal familial ties or a plan that more broadly includes Tribal kin, extended family and friends, or other “fictive kin” (see section 471(a)(28), section 473(d) and ACYF-CB-PI-10-11).
- Under the relative notification requirements of section 471(a)(29) of the Act, the title IV-E agency has discretion to determine the scope of the terminology “all other adult relatives.” However, to the extent that it is practical, the Children’s Bureau suggests that the agency use the same definition of “relative” for the relative notification provision and the title IV-E kinship guardianship assistance program option (if the agency elects the guardianship option) (see ACYF-CB-PI-10-11).
- A title IV-E agency that elects to develop different licensing or approval standards for relative or kinship foster family homes and non-relative/non-kinship foster family homes under 45 CFR 1355.20 may define “relative” and “kin” when determining to whom they will apply the relative licensing and approval standards. The Children’s Bureau encourages agencies to define relative and kin in a way that is inclusive of tribal custom and adopt a broad definition of relative and kin for purposes of licensing and approval standards.
- A title IV-E agency that elects to claim federal financial participation for allowable administrative costs of independent legal representation provided to the relative caregiver of a child who is eligible for title IV-E foster care under 45 CFR 1356.60(c)(4)(ii), has discretion to define the term “relative.” For example, a title IV-E agency may define relative to include kin and “fictive-kin.” In exercising this discretion, the Children’s Bureau encourages title IV-E agencies to implement a definition of “relative” that includes a wide range of kinship relationships to support early identification of relatives and kin and to help remove barriers to kinship placements.
  - **Source/Date:** 8/8/2024
  - **Legal and Related References:** Social Security Act sections 471(a)(10), (28) and (29), 472(a)(3)(A) and (i)(1)(A); 473(d); 45 CFR 233.90(c)(1)(v), 1355.20, and 1356.60(c)(4)(ii); Child Welfare Policy Manual 8.3A.11, Q/A #4 and 8.1B, Q/A #11; ACYF-CB-PI-10-11