

Child Welfare Policy Manual

Questions & Answers

8.4F TITLE IV-E, General Title IV-E Requirements, Criminal Record and Registry Checks

1. Question: Do States have to request information from a "State" maintained child abuse and neglect registry of a U.S. Territory in which a prospective foster or adoptive parent has resided within the last five years in accordance with section 471(a)(20)(C)(i) of the Social Security Act (the Act)?

Answer: Yes. For the purposes of title IV-E, a "State" is defined in 45 CFR 1355.20 as the 50 States, the District of Columbia, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa. As such, States have to request child abuse and neglect information pursuant to section 471(a)(20)(C)(i) of the Act of any of these territories that maintains a child abuse and neglect registry. However, only those Territories that have an approved State plan under title IV-E are obligated to comply with an incoming request pursuant to section 471(a)(20)(C)(ii) of the Act.

- **Source/Date:** 12/6/2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C); 45 CFR 1355.20

2. Question: Does the criminal background check provision require checks at the State level, Federal level, or both?

(Deleted 01/31/2007)

3. Question: Does the criminal records checks provision apply to foster parents and adoptive parents whose licensure or approval predates the passage of the Adoption and Safe Families Act?

(Deleted 09/20/2007)

4. Question: Do the requirements for a criminal records check include checks for any member of the household over the age of 18?

Answer: No. Such a requirement would go beyond the statute.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 471 (a)(20); 45 CFR 1356.30

5. Question: Does a "drug-related offense" include an alcohol-related felony conviction?

Answer: The criminal records check provision at section 471 (a)(20)(A) of the Social Security Act would apply in such situations. Alcohol is considered a drug and a felony conviction for an alcohol-related offense is a serious crime. Therefore, unless the State opts out of the provision, an alcohol-related felony conviction within the last five years would prohibit the State from placing children with the individual for the purpose of foster care or adoption under title IV-E.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 471 (a)(20); 45 CFR 1356.30

6. Question: May an Indian tribe elect not to conduct or require criminal records checks on foster or adoptive parents if it obtains an approved resolution from the governing body of the Indian tribe?

Answer: No. Tribes may only receive title IV-E funds pursuant to a title IV-E agreement with a State. A Tribe that enters into such an agreement must comport with section 471 (a)(20) of the Social Security Act (the Act) and section 1356.30 in accordance with the State plan in order to receive title IV-E funding on behalf of children placed in the homes it licenses. Agreements between the State child welfare agency and other public agencies or Tribes permit those entities to have placement and care responsibility for a particular group of the foster care population under the approved State plan. Such agreements do not permit other public agencies or tribes to develop a distinct title IV-E program separate from that operated under the approved State plan.

- **Source/Date:** Preamble to the Final Rule (65 FR 4020) (1/25/00)
- **Legal and Related References:** Social Security Act - section 471(a)(20); 45 CFR 1356.30

7. Question: Must a State complete the fingerprint-based check of national crime information databases required by section 471(a)(20)(A) of the Social Security Act before placing a child in the home of a prospective foster or adoptive parent?

Answer: No. The State is not required by Federal law to complete the fingerprint-based checks before placing a child in the home of a prospective foster or adoptive parent. Rather, section 471(a)(20)(A) of the Act makes a fingerprint-based check of the national crime

information databases an integral part of a State's criminal records check procedures that the State must complete before licensing or approving a prospective foster or adoptive parent.

Although the State may place a child in the home prior to completing the required criminal records check, doing so prior to completing thorough safety checks has serious practice implications. Further, States must still meet other Federal requirements to claim title IV-E foster care maintenance or adoption assistance. Therefore, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any prohibited felonies in section 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed. Similarly, title IV-E adoption assistance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any of the prohibited felonies, and all other adoption assistance criteria are met.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act § 471(a)(20)(A)

8. Question: Must the State conduct the child abuse and neglect registry checks required by section 471(a)(20)(C) of the Social Security Act before placing a child in the home of a prospective foster or adoptive parent?

Answer: No. The State is not required to conduct a check of the State's child abuse and neglect registry before placing a child in the home of a prospective foster or adoptive parent. Rather, a State must check, or request a check of a State-maintained child abuse and neglect registry in each State the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding five years before the State can license or approve a prospective foster or adoptive parent.

Although the State may place a child in the home prior to completing the required registry checks, doing so prior to completing thorough safety checks has serious practice implications. Further, States must still meet other Federal requirements to claim title IV-E foster care maintenance or adoption assistance. Therefore, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any prohibited felonies in section 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed. Similarly, title IV-E adoption assistance payments may be paid on behalf of an otherwise eligible child only once the criminal records check has been completed, the records reveal that the parents did not commit any of the prohibited felonies, and all other adoption assistance criteria are met.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act § section 471(a)(20)(C)

9. Question: Does section 471(a)(20) of the Social Security Act (the Act) require the State to conduct a child abuse and neglect registry check on an adult who moves into a licensed/approved foster or adoptive home?

Answer: No. The new child abuse and neglect registry check requirements in section 471(a)(20) of the Act apply to "prospective" adoptive or foster parents, as well as all adults living in the prospective family's home. Thus, once a foster or adoptive home has been approved or licensed by the State, section 471(a)(20) of the Act does not require the State to complete additional child abuse and neglect checks on other adult(s) living in the home.

- **Source/Date:** 01/29/07
- **Legal and Related References:** Social Security Act § section 471(a)(20)

10. Question: Please explain the criminal background check requirements of section 471(a)(20)(A) of the Act and to whom they apply.

Answer: Section 471(a)(20)(A) of the Act places requirements on the State as a condition of the title IV-E State plan and places additional requirements for claiming title IV-E foster care maintenance and adoption assistance payments on behalf of a title IV-E eligible child.

As a condition of the title IV-E State plan, the State title IV-E agency must have procedures for criminal background checks, including fingerprint-based criminal record checks of the national crime information databases for prospective foster and adoptive parents. The State title IV-E agency and its agents, must conduct the checks and otherwise apply the procedures for prospective parents whom it will license or approve to care for a participant in the State's title IV-B/IV-E program (section 471(a)(20)(A) of the Act). Agents of the title IV-E agency include a State licensing authority and any other agency that is under contract with the title IV-E agency to issue licenses or approvals.

Further, in order for a State to claim title IV-E foster care maintenance or adoption assistance payments for an otherwise title IV-E eligible child, the criminal records check must reveal that the prospective foster or adoptive parent has not been convicted of the prohibited felonies, and in the case of a foster family home, the home must be licensed or approved (section 471(a)(20)(A)(i) and (ii) of the Act). This applies regardless of the entity that licenses or approves the prospective parent (e.g., a private adoption agency, an Indian tribe either with or without an agreement under section 472(a)(2)(B)(ii) of the Act, or a private child placing agency not under contract with the State agency).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A)

11. Question: To whom do the child abuse and neglect registry checks for prospective foster and adoptive parents at section 471(a)(20)(C) of the Social Security Act (the Act) apply?

Answer: The State must check any child abuse and neglect registry maintained by a State in which the adults living in the home of a prospective foster or adoptive parent have resided in the preceding five years, for any prospective parent who: 1) will be licensed or approved by the title IV-E agency, another public agency operating the title IV-E program pursuant to an agreement with the title IV-E agency (section 472(a)(2)(B)(ii) of the Act), or any other agency that is under contract with the title IV-E agency to issue licenses or approvals; and, 2) will provide care for a child who is a participant in the State's title IV-B/IV-E programs (section 471(a)(20)(C)(i) of the Act).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

12. Question: May a State develop alternative procedures for background checks that do not include a fingerprint-based check of the national crime information databases (NCID) or a check of all State-maintained child abuse and neglect registries in which a prospective foster or adoptive parent and other adults living in the house have resided in the past five years?

Answer: A State's general procedures for criminal background checks of prospective foster and adoptive parents prior to licensing or approval as specified in section 471(a)(20) of the Social Security Act, must include conducting fingerprint-based checks of the NCID. The State must also check its own State-maintained child abuse and neglect registry, if it has one, and other State-maintained registries in which adult members of the prospective foster or adoptive parent's home have resided in the last five years. See the Child Welfare Policy Manual (CWPM) Section 8.4F Q/A #29 for case-by-case situations in which States may use an alternative method to obtain fingerprint-based checks of the NCID.

- **Source/Date:** 07/02/07
- **Legal and Related References:** Social Security Act - section 471(a)(20); CWPM Section 8.4F #29

13. Question: If a foster parent decides to become an adoptive parent, would the background check provisions of section 471(a)(20) of the Social Security Act (the Act) apply if the foster parent had already undergone the checks to be licensed as a foster parent?

Answer: It depends. Some prospective parents are "dually licensed" to be a foster parent and/or an adoptive parent and therefore do not need a separate license or approval once initially licensed or approved. In this circumstance, the parent providing foster care does not become a "prospective" adoptive parent and the State would not be required by Federal law to conduct the background checks in section 471(a)(20) of the Act again.

However, if a State has separate licenses or approvals for foster and adoptive parents, then the State must comply with section 471(a)(20) of the Act prior to licensing or approving the foster parent as an adoptive parent. Consistent with the Child Welfare Policy Manual 8.4F Q/A #14, if the State has established an appropriate timeframe that a background check remains valid and such timeframe has not expired for the foster parent seeking approval as an adoptive parent, the State can consider the requirement of section 471(a)(20) of the Act met without conducting a new background check.

- **Source/Date:** April 7, 2008
- **Legal and Related References:** Social Security Act - section 471(a)(20)

14. Question: May a State establish an appropriate timeframe for when a fingerprint-based check of the national crime information databases or a child abuse and neglect registry check must be completed or can remain valid to meet the purposes in section 471(a)(20) of the Social Security Act (the Act)?

Answer: Yes. The statute requires only that the background checks for prospective foster and adoptive parents be conducted prior to licensure or approval (section 471(a)(20) of the Act). Since the statute does not prescribe a specific timeframe for when such checks must be completed or remain valid, the State has the discretion to establish timeframes as it sees fit, so long as the background checks are completed prior to licensure or approval.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)

15. Question: May a State determine that it will not license or approve a foster or adoptive parent who has a criminal record other than one specified in section 471(a)(20)(A)(i) or (ii) of the Social Security Act (the Act)?

Answer: Yes. The State has the discretion to establish more restrictive criteria for foster or adoptive home licensure or approval than described in section 471(a)(20)(A)(i) or (ii) of the Act.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A)

16. Question: Section 471(a)(20)(C)(i) of the Social Security Act (the Act) requires a State to request a check of information in another State's child abuse and neglect registry in which a prospective foster parent, adoptive parent, or other adult in the home has resided in the preceding five years. With regard to this provision, is the requesting State able to comply with the law if the other State that maintains such a registry denies the request because the provision is not yet effective in the other State?

Answer: Yes. Section 471(a)(20)(C)(i) of the Act requires the State to request and check a State-maintained child abuse and neglect registry of another State in which prospective foster and adoptive parents and other adults living in the home have resided within the last five years. The requirement is met for the requesting State when the State receives the information from the other State's registry or is denied the request because the statutory provision is not yet in effect in the other State (or does not maintain a registry). If the State's request to check child abuse and neglect information is denied because the other State has an ACF-approved delayed effective date, or the State does not maintain a registry, the State may determine whether to license or approve the prospective foster or adoptive parent in the absence of the information.

A State that maintains a child abuse and neglect registry must comply with another State's request to check information on a prospective adoptive or foster parent and other adult household members (section 471(a)(20)(C)(ii) of the Act) as of the State's specified effective date consistent with section 471(a)(20)(C)(i) and (ii) of the Act. The effective date will vary among the States and may extend into 2008 if a State has an ACF-approved delayed effective date (section 152(c) of Public Law 109-248).

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C); Public Law 109-248 § section 152(c)

17. Question: Must a State make a registry check request pursuant to section 471(a)(20)(C)(i) of the Social Security Act (the Act) of a State which is not yet required to comply with such a request due to having an ACF-approved delayed effective date for section 471(a)(20)(C)(ii) of the Act?

Answer: Yes. Section 471(a)(20)(C)(i) of the Act requires a State to request a check of information in another State's child abuse and neglect registry in which a prospective foster parent, adoptive parent, or adult in the home has resided in the preceding five years. A State seeking to approve or license prospective foster or adoptive parents must request the information on all adults in the prospective foster/adoptive home, even if the other State that maintains a child abuse and neglect registry has an ACF-approved delayed effective date.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)(i)

18. Question: Section 471(a)(20)(C)(i) of the Social Security Act (the Act) states that "the State shall check any child abuse and neglect registry maintained by the State..." How does this apply if a State does not maintain a child abuse and neglect registry?

Answer: If a State itself does not maintain a child abuse and neglect registry, the State is not required by section 471(a)(20)(C)(i) of the Act to provide information to a requesting State or check further for child abuse and neglect information within the State on the prospective

adoptive parent, foster parent or other adults living in the home.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)(i)

19. Question: How should a State proceed when another State that maintains a child abuse and neglect registry does not respond to an out-of-State request to check a child abuse and neglect registry pursuant to section 471(a)(20)(C)(i) of the Social Security Act (the Act)?

Answer: The State may not approve or license a prospective foster or adoptive home pursuant to section 471(a)(20)(C)(i) of the Act without the results of a State-maintained child abuse and neglect registry check of another State where the prospective parents or other adults in the home have lived in the past five years, unless the results are not provided because the other State has an ACF-approved delayed effective date. A State that believes that another State that maintains a registry is not responding appropriately to an information request for a reason other than an ACF-approved delayed effective date should contact their ACF regional office. ACF may conduct a partial review pursuant to 45 CFR 1355.32(d) to determine the State's compliance with the title IV-E State plan.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)(i) and (ii); 45 CFR 1355.32(d)

20. Question: How should a State that maintains a child abuse and neglect registry and has an ACF-approved delayed effective date respond to incoming requests for child abuse and neglect registry information on prospective adoptive and foster parents pursuant to section 471(a)(20)(C) of the Social Security Act? Is that State out of compliance with the law if it does not provide the information?

Answer: The statute does not prescribe how a State with an ACF-approved delayed effective date should respond when denying a request for child abuse and neglect registry information from another State. The State is not out of compliance with the statute if it is unable to provide the information in its registry to another State on the adults living in the home of a prospective foster and adoptive parent before the ACF-approved effective date on which it is required to comply.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

21. Question: If a State has verified that another State does not maintain a child abuse and neglect registry, is the State still required by section 471(a)(20)(C)(i) of the Social Security Act (the Act) in every case to make a request to that other State?

Answer: No. The requirement in section 471(a)(20)(C)(i) of the Act to request a check for child abuse and neglect registry information in another State in which the prospective parent or other adult has resided in the preceding five years is inapplicable if that other State does not maintain a child abuse and neglect registry.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)(i)

22. Question: Some States have procedures that predicate releasing information from their State-maintained child abuse and neglect registry on the requesting State meeting certain conditions. For example, some States require the requesting State to obtain a notarized release or consent from the prospective foster or adoptive parent and others charge a fee for the information. Is this permissible?

Answer: Yes. The statute does not prohibit a State from establishing procedures or charging fees for another State to access information from its State-maintained child abuse and neglect registry. As long as the State that maintains the registry enables another State to request and check information in that registry, the State is meeting the requirement in section 471(a)(20)(C)(ii) of the Social Security Act. Any fees paid by the requesting State to another State to gain access to information in a State-maintained child abuse and neglect registry pursuant to section 471(a)(20)(C)(i) of the Act may be reimbursed as direct title IV-E administrative costs.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

23. Question: If the child will not receive title IV-E foster care maintenance or adoption assistance payments, must a prospective foster parent or adoptive parent who will be licensed or approved by an Indian tribe meet the requirements of 471(a)(20) of the Social Security Act (the Act)?

Answer: No. The requirement at section 471(a)(20) of the Act is applicable to the State's title IV-E plan, with some additional conditions for claiming title IV-E payments and therefore does not extend to Indian tribal licenses or approvals if the child will not receive title IV-E foster care maintenance or adoption assistance payments.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - sections 471(a)(20)

24. Question: Section 471(a)(20)(A)(i) and (ii) of the Social Security Act (the Act) prohibit a State from claiming title IV-E foster care maintenance payments or adoption assistance payments when prospective foster or adoptive parents have been convicted of certain crimes. Are there any exemptions or exceptions permitted from

this requirement, such as the State or Indian tribe under a title IV-E agreement with the State considers the prospective parent rehabilitated or the placement is in the best interests of the child?

Answer: No, there are no exceptions to the requirements at section 471(a)(20)(A)(i) and (ii) of the Act, once the provision is effective in the State. The State, or an Indian tribe under a title IV-E agreement (pursuant to section 472(a)(2)(B)(ii) of the Act) has the discretion to place the child in a home where prospective parents have been convicted of such crimes. However, the State or Tribe may not claim title IV-E foster care maintenance or adoption assistance payments in such cases.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - sections 471(a)(20)(A) and 472(a)(2)(B)(ii)

25. Question: Is an Indian tribe that has a title IV-E agreement under section 472(a)(2)(B)(ii) of the Social Security Act (the Act) permitted an exemption or exception to the background check provisions of section 471(a)(20) of the Act?

Answer: No. An Indian tribe with a section 472(a)(2)(B)(ii) agreement must meet the requirements of section 471(a)(20) of the Act for any prospective foster or adoptive parent who will provide care for a child who will receive title IV-E foster care maintenance payments or title IV-E adoption assistance payments.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act & sections 471(a)(20)(A) and 472(a)(2)(B)(ii)

26. Question: Do States have to request information from a child abuse and neglect registry of an Indian tribe in which a prospective foster or adoptive parent has resided within the last five years in accordance with section 471(a)(20)(C)(i) of the Social Security Act (the Act)? Do Indian tribes have to comply with such a request from a State according to section 471(a)(20)(C)(ii) of the Act?

Answer: No to both questions. The references to a "State"-maintained child abuse and neglect registry in section 471(a)(20)(C)(i) and (ii) of the Act do not include an Indian tribe, as an Indian tribe is not considered a "State" for title IV-E pursuant to 45 CFR 1355.20.

- **Source/Date:** April 13, 2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

27. Question: Is a State able to comply with section 471(a)(20)(A) of the Social Security Act (the Act) if the State is unable to take legible fingerprint impressions of the prospective parent to whom the requirements apply?

(Deleted 07/02/2007)

28. Question: For the purposes of section 471(a)(20)(C) of the Social Security Act (the Act), what constitutes a "child abuse and neglect registry maintained by the State"? If a State does not have such a registry, is it required to develop one?

Answer: The State has the discretion to determine whether it has a "child abuse and neglect registry maintained by the State." The law does not require a State that does not maintain a child abuse and neglect registry to develop one, neither does it require a State that currently has a registry to maintain it in perpetuity. States that do not maintain a child abuse and neglect registry are not required by section 471(a)(20)(C)(ii) of the Act to provide child abuse and neglect information to a requesting State on adult members of a prospective foster or adoptive parent's home.

- **Source/Date:** 04/27/07
- **Legal and Related References:** Social Security Act § section 471(a)(20)(C)

29. Question: What information must a State release from its child abuse and neglect registry to comply with an incoming request from another State for information on an adult member of a prospective foster or adoptive parent's home as required by section 471(a)(20)(C)(ii) of the Social Security Act? For example, may the State release information only on substantiated reports of abuse and neglect?

Answer: The State has the discretion to determine what information to release to a requesting State on the prospective foster or adoptive parent or any adult living in the home of such prospective parent, unless or until we issue regulations on this provision. We encourage States to be as forthcoming as possible to permit States to make appropriate decisions about approval or licensure of prospective foster or adoptive parents.

- **Source/Date:** 04/27/07
- **Legal and Related References:** Social Security Act § section 471(a)(20)(C)(ii)

30. Question: Some prospective foster or adoptive parents have unreadable or missing fingerprints due to their age, disability, or occupation. How can a State comply with section 471(a)(20)(A) of the Social Security Act (the Act) in such cases?

Answer: Section 471(a)(20)(A) of the Act requires States to have procedures for conducting fingerprint-based checks of the national crime information databases (NCID) for certain prospective foster and adoptive parents (see CWPM 8.4F Q/A #9). Those procedures must provide for the State to obtain fingerprints of all such prospective parents and submit them to the NCID.

We are aware that in some limited, case-specific circumstances, a State may not be able to: 1) obtain an individual's fingerprints as a result of the individual's disability; or, 2) obtain legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the NCID to provide results. Establishing such procedures under the below circumstances satisfies section 471(a)(20)(A) of the Act:

Inability to obtain fingerprints due to a physical disability. The State must comply with section 471(a)(20)(A) of the Act by developing and utilizing a procedure to conduct a name-based check of the NCID or it may develop and utilize another appropriately comprehensive criminal background check process. We expect the State to reserve and clearly state in writing that this alternative procedure is for limited and case-specific situations, such as when a fingerprint specialist has documented that the prospective parent's disabling condition prevents fingerprinting, or the individual does not have fingers.

Inability to obtain results due to low quality fingerprints. The State must comply with section 471(a)(20)(A) of the Act by obtaining and submitting the individual's fingerprints to the NCID. If the individual's fingerprint impressions are rejected by the NCID, the State may instead implement an alternate procedure to conduct a name-based check of the NCID or to use another appropriately comprehensive criminal background check process. We expect the State to reserve and clearly state in writing that this alternate procedure is used only in the limited and case-specific situation described above.

It is not acceptable for the State to utilize an alternative background check process when fingerprints impressions are of low quality due to the State's lack of technological capacity or use of improper techniques. The Criminal Justice Information Services (CJIS) Division of the Department of Justice and the State's CJIS Systems Officer can assist the State in determining appropriate techniques and technologies to use to take legible fingerprints, including procedures for individuals with abnormalities of the fingers or hands.

- **Source/Date:** 07/02/07
- **Legal and Related References:** Social Security Act § section 471(a)(20)(A)

31. Question: Does the State title IV-E agency, or licensing authority, itself have to request information from a State-maintained child abuse and neglect registry pursuant to section 471(a)(20)(C)(ii) of the Social Security Act (the Act)? Similarly, does the State title IV-E agency, or licensing authority, itself have to receive the registry information?

Answer: Yes to both questions. The statute provides "that *the State shall check* any child abuse and neglect registry...*and request* any other State in which" the prospective parent or other adults in the home have resided the past five years (see section 471(a)(20)(C) of the Act). Further, the State that maintains such a registry must comply with an incoming request received from another State title IV-E agency or licensing authority (section 471(a)(20)(C)(ii))

of the Act). For purposes of this State plan requirement, the request must be made *by the State* title IV-E agency or other licensing authority requiring the check *directly to the other State* where the adult had lived, and the State that maintains the child abuse and neglect registry must respond *to the State* title IV-E agency or other licensing authority rather than to the prospective parent or other adult living in the household. It is permissible, however, for the State that maintains the registry to have a procedure which requires the State title IV-E agency or other licensing authority submitting the request to obtain an affidavit or other form of consent from the adult to release such information.

- **Source/Date:** 12/6/2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C)

32. Question: Upon the dissolution of an adoption or death of the adoptive parents of a child receiving title IV-E adoption assistance, must the child's new prospective adoptive parents meet the background check requirements of section 471(a)(20) of the Social Security Act (the Act) before they can receive IV-E adoption assistance if that subsequent adoption will be achieved through a private or independent entity?

Answer: Yes. In order for the State to claim title IV-E adoption assistance payments in an independent or private adoption for an otherwise eligible child, the background checks specified in section 471(a)(20)(A) of the Act must be conducted. Furthermore, the checks must reveal that the prospective adoptive parent has not been convicted of one of the prohibited felonies consistent with section 471(a)(20)(A)(i) and (ii) of the Act.

- **Source/Date:** 12/6/2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A); Child Welfare Policy Manual Section 8.4F Q/A #9 and 10

33. Question: Are the criminal background check requirements at section 471(a)(20)(A) of the Social Security Act (the Act) applicable to all international, private or independent adoptions?

Answer: No, the criminal background checks pursuant to section 471(a)(20)(A) of the Act are only applicable in circumstances in which the child who is the subject of an international, private or independent adoption will receive title IV-E adoption assistance. This is because section 471(a)(20)(A) of the Act generally applies to prospective parents whom the State or its agents will license or approve to care for a participant in the State's title IV-B/IV-E program (see the Child Welfare Policy Manual Section 8.4F Q/A #9). In order for a State to claim title IV-E adoption assistance payments for an otherwise eligible child, the State must conduct a criminal background check that reveals that the prospective adoptive parent has not been convicted of one of the prohibited felonies consistent with section 471(a)(20)(A)(i) and (ii) of the Act. Therefore, if a child subject to an international, private or independent adoption is otherwise eligible for title IV-E adoption assistance, the State can claim reimbursement under

title IV-E only after the background checks specified in section 471(a)(20)(A) of the Act have been conducted and the results meet the conditions in section 471(a)(20)(A)(i) and (ii) of the Act.

- **Source/Date:** 04/25/08
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A); Child Welfare Policy Manual section 8.4F Q/A #9

34. Question: Under what circumstances may the agency claim title IV-E foster care maintenance payments on behalf of a child who is placed in a child care institution? May a title IV-E agency's criminal record check procedures under 471(a)(20)(D) allow adults to work in a childcare institution before the results of their checks have been received?

Answer: The criminal record check procedures under 471(a)(20)(D) of the Act establish the circumstances under which an agency may claim title IV-E foster care maintenance payments on behalf of an eligible child. A title IV-E agency only may claim title IV-E foster care maintenance payments on behalf of a child placed in a child care institution if, during the period the title IV-E agency claims title IV-E foster care maintenance payments, the results of the criminal record checks have been received for all of the adults working in the child care institution.

The procedures under 471(a)(20)(D) of the Act do not govern when an employee may be hired to work in a child care institution, or whether an employee may work in a child care institution at a certain point in time (e.g., before the results of the criminal record checks are received).

- **Source/Date:** 08/22/2019
- **Legal and Related References:** Social Security Act - section 471(a)(20)(D)

35. Question: May a title IV-E agency claim title IV-E foster care maintenance payments for children placed in child care institutions if the agency does not have approved criminal record check procedures in place by its effective date or delayed effective date as required section 471(a)(20) of the Social Security Act (the Act) and is under a program improvement plan?

Answer: No. Congress specified an effective date for the criminal record check requirements in section 471(a)(20)(D) of the Act and possible delayed effective dates by which a title IV-E agency that required legislation must have implemented this provision. As such, a title IV-E agency may not claim title IV-E foster care maintenance payments for children placed in child care institutions while under a program improvement plan because it does not have its criminal record procedures developed and approved by its effective date or delayed effective date.

- **Source/Date:** 08/22/2019
- **Legal and Related References:** Social Security Act - section 471(a)(20)(D)

36. Question: Must a title IV-E agency's alternative procedures for criminal record checks be fingerprint-based under section 471(a)(20)(D) of the Social Security Act (the Act)?

Answer: No. The Act does not require that the title IV-E agency's alternative procedures for criminal record checks be fingerprint-based. See ACYF-CB-PI-18-07 for further information on alternative procedures.

- **Source/Date:** 08/22/2019
- **Legal and Related References:** Social Security Act - section 471(a)(20)(D)

37. Question: The Act at 471(a)(20)(B) and (D) requires that the title IV-E agency request child abuse and neglect registry information from any State or tribe with an approved title IV-E plan where the adult who works in the child care institution has resided over the preceding five years. From which date are these five years calculated for adults already working in the institution?

Answer: For each adult working in the child care institution, the agency may calculate the preceding five-year period for this requirement using its effective date for section 471(a)(20) (B) and (D), or through another method as approved in its title IV-E plan.

- **Source/Date:** 08/22/2019
- **Legal and Related References:** Social Security Act - section 471(a)(20)(B) and (D)

38. Question: When may a title IV-E agency begin to claim title IV-E foster care maintenance payments (FCMP) on behalf of an otherwise eligible child if the criminal record checks required by section 471(a)(20) (A) or (D) were completed after a child is placed in a foster family home or child care institution?

Answer: Consistent with section 471(a)(20)(A) and (D) of the Social Security Act (the Act), a title IV-E agency only may claim title IV-E FCMPs on behalf of a child placed in a foster family home or child care institution for the days that the results of the criminal record checks have been received as described in the Act. Specifically, a title IV-E agency may only claim title IV-E FCMP on behalf of an otherwise eligible child placed in a child care institution for the days that the agency has received criminal records checks for all adults working in the child care institution (CWPM 8.4F, Q/A #34). Further, as specified in CWPM 8.4F, Q/A #8, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child placed in a foster family home only for the days that the foster parents' criminal records check have been completed, the records reveal that the parents did not commit any prohibited felonies in section 471(a)(20)(A) (i) and (ii) of the Act, and the foster family home is licensed.

- **Source/Date:** 12/8/2022
- **Legal and Related References:** Social Security Act - section 471(a)(20)(A) and (D), CWPM §8.4F, Question and Answers #8 and #34