

Section 6: ADOPTION ASSISTANCE FOR CHILDREN WITH SPECIAL NEEDS**6.0 PURPOSE**

To provide guidance in: furnishing assistance to families wishing to adopt children, especially foster children, through the provision of subsidies, reimbursement of adoption expenses, medical coverage and social services; and obtain federal reimbursement for those costs through establishing Title IV-E eligibility of those children.

All parents adopting special needs children through the Department shall be provided information on the availability of adoption assistance. If parents decline assistance, document in log of contacts that offer was made and declined.

Any parents adopting special needs children in the state of Hawaii shall be provided information on the availability of adoption assistance upon request.

6.1 AUTHORITY

- A. P.L. 96-272
- B. HRS 346-14
- C. HAR 17-1620
- D. 45 C.F.R. 1356
- E. 42 U.S.C. 670-674

6.2 SCOPE OF SERVICES**6.2.1 Adoption assistance shall include**

- A. A subsidy or money grant to meet the basic maintenance needs **(and need for extraordinary care)** of the eligible child;
- B. Non-recurring adoption expense reimbursement;
- C. Social services under Title XX of the federal Social Security Act.
- D. Medical benefits:
 - 1. Federally-funded adoption assistance shall further include medical care benefits under the state's Title XIX Medicaid program for the eligible child; or
 - 2. State-funded adoption assistance shall further include medical care benefits under the state's Medicaid program.

6.3 ELIGIBILITY REQUIREMENTS

6.3.1 Programmatic

- A. The child must have special needs as defined in 17-1620-7(b)(1):
1. The child cannot return to the home of his or her parent(s) as evidenced by
 - a. a court order terminating parental rights;
 - b. a petition to the court for a permanent plan hearing for the purpose of terminating parental rights; or
 - c. a signed voluntary relinquishment by the parent(s).
 2. The child cannot be placed with adoptive parent(s) without adoption assistance, including medical care assistance under Title XIX, because of one or more of the following specific factors or conditions:
 - a. Age 4 or older by the date of the placement of the child with the prospective adoptive parent(s);
 - b. Race or ethnic background;
 - c. Member of a sibling group being adopted together or is a child being adopted by adoptive parent(s) who have previously adopted another child(ren) born of the same mother or father;
 - d. Presence of a severe or chronic medical, physical, mental, or emotional condition, behavioral disorder, or other clinically diagnosed disability which has been established and documented in writing by a professional, other than the DHS social worker, who is competent to make an assessment and is operating within the scope of his or her profession;
 - e. High risk of developing severe or chronic medical, physical, mental, or emotional condition, behavioral disorder, or other clinically diagnosed disability which has been established and documented in writing by a professional, other than the DHS social worker, who is competent to make an assessment and is operating within the scope of his or her profession; or

- f. The child is an “applicable child” (as defined below in 6.5.2.A.) who meets all of the medical or disability requirements of Supplemental Security Income (SSI); and
3. Reasonable efforts to locate an appropriate adoptive home without subsidy or without medical care benefits have been unsuccessful. These efforts shall include, but not limited to:
 - a. Registration with the department or child-placing organization home-finding services;
 - b. Exploration or registration with the local adoption registry or exchange; or
 - c. Exploration or registration with an out-of-state adoption registry or exchange.

Exception to 6.3.1.A.3. requirement is allowable when the child has established significant emotional ties with the current resource family or with relative(s), and the current resource family or relatives has expressed an interest in adopting the child and the family has been approved in accordance with 17-805 as an appropriate adoptive home for the child.

- B. There shall be no income eligibility requirement or means test for adoptive or prospective adoptive parent(s) in determining eligibility for adoption assistance;
- C. The child is under 18 years (or under the age of 21 if the child has a mental or physical disability which would warrant continuation of assistance);
- D. The child shall have been determined by the state:
 - a. To not be the biological child of the prospective adoptive parent(s); and
 - b. To be placed for adoption in an approved adoptive home in accordance with Chapter 17-805 and HRS 346-19.7, including fingerprint based FBI criminal background checks and the check of child abuse and neglect registries for all adults residing in the prospective adoptive home, including checks in states where any adult residing in the home lived within the past 5 years.

- E. DHS shall have entered into the adoption assistance agreement with the prospective adoptive parent(s) prior to the finalization of the adoption;
- F. The child shall be the subject of a Hawaii adoption assistance agreement and not the subject of another state's adoption assistance agreement; and
- G. The adoptive placement shall not have occurred in violation of applicable laws; or
- H. In the case of where the child received adoption assistance in a prior adoption that is dissolved or in a prior adoption where both adoptive parents died, the child is subsequently adopted and the conditions of 6.3.1.A. and 6.3.1.E through G are met.

For state-funded adoption assistance, the child shall be in the custody of the Department or a licensed child placing agency to which DHS transferred custody, and ineligible for federally funded adoption assistance.

6.3.2 Categorical (For federally funded adoption assistance)

- A. Effective October 1, 2009, for a child who is an "applicable child" (as defined below in 6.5.2.A.), the criteria of 6.3.1.A – G, and 6.3.2.C. and 6.3.2.D., and the following additional eligibility requirements that must be met prior to the finalization of the adoption:
 1. At the time of the initiation of the adoption proceedings, the child was in the care of a public or licensed private child placement agency by way of a voluntary placement, voluntary relinquishment, or a court-ordered removal with a judicial determination that remaining in the home would be contrary to the welfare (CTW*) to the child; or
 2. Meets all disability or medical requirements of the Title XVI Supplemental Security Income (SSI) program as determined by the state; or
 3. Was residing in a resource family home or child care institution

* For purposes of establishing eligibility for federally-funded adoption assistance, the judicial determination does not include the "reasonable efforts to prevent removal" finding.

with the child's minor parent and the child's minor parent was in foster care pursuant to a valid voluntary foster custody agreement (VFCA), voluntary relinquishment, or court-ordered removal with a judicial determination that remaining in the home would be CTW* of the minor parent; or

4. Was eligible for Title IV-E adoption assistance in a previous adoption (or would have been eligible had the Adoption and Safe Families Act of 1997 been in effect at the time of the previous adoption) in which the adoptive parents have died or had their parental rights terminated.

B. For children who are **not** "applicable children" (as defined in 6.5.2.A.), in addition to meeting the criteria in section 6.3.1.A – G, there are the following four paths to eligibility for Federally funded adoption assistance:

1. The child was AFDC eligible (as was in effect July 16, 1996) in the month a voluntary foster custody agreement was entered into or, for children judicially removed, in the month of petition to remove the child from the home of a specified relative as a result of ¹:
 - a. Judicial determination that continuation in that home was CTW* of the child at the first court hearing sanctioning the removal, for children removed on or after January 23, 2001; or
 - b. Judicial determination that continuation in that home was CTW* of the child at any court hearing up to the time of the initiation of the adoption proceedings, for children removed prior to January 23, 2001; or
 - c. Relinquishment to DHS or a licensed, private, non-profit child-placing organization provided that a petition has

¹ For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child needed to be AFDC eligible both in the month of the initiation of the adoption proceedings (i.e. filing of adoption petition) and in the month of the child's removal from the home of a specified relative.

For children who were removed prior to January 23, 2001, the child could be AFDC eligible either in the month of the initiation of the adoption proceedings or in the month of the child's removal from the home of a specified relative.

* For purposes of establishing eligibility for federally-funded adoption assistance, the judicial determination does not include the "reasonable efforts to prevent removal" finding.

been filed with the court to remove the child from his or her home within six months of the time the child lived with the specified relative and there is a subsequent judicial determination to the effect that remaining in that home was CTW* of the child; or

- d. Valid VFCA signed by the child's legal custodian and the department which leads to a removal of the child, and there was a Title IV-E foster care maintenance claimable payment paid on behalf under the agreement. In addition, the child shall be under the care and custody of DHS; **and**
 - e. The child had been living with the specified relative from whom removed within six months prior to the month in which a VFCA was entered into or court proceedings were initiated leading to the child's removal as the result of a CTW* finding; or
2. The child must meet Supplemental Security Income (SSI) requirements as determined by a Social Security Administration representative prior to the finalization of the adoption ²;
 3. The child is a child of a minor parent who is receiving Title IV-E maintenance payments that cover both the minor parent and the child prior to the finalization of the adoption ³; or
 4. The child received Title IV-E adoption assistance in a prior adoption that dissolved or both adoptive parents died, and the child is subsequently adopted, and the conditions in 6.3.1.A, 6.3.1.C., and 6.3.1.E through G are met;
- C. The child is a U.S. citizen or a qualified alien under section 431 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA); and
1. the child must have lived in the U.S. for five years if the child entered the U.S. on or after August 22, 1996 and is placed with an unqualified alien; or

² For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child must have determined eligible for SSI by the initiation of the adoption proceedings.

³ For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child must meet the requirement by the initiation of the adoption proceedings.

2. the child is exempt from the five year residency requirement because the child is adopted by a U.S. citizen or qualified alien; or the child is a member of the exception groups pursuant to 7 U.S.C. section 1612(b): refugees, asylees, aliens whose deportation is withheld, veterans and those on active duty (as well as the spouse and unmarried dependent children of that person), Cuban or Haitian entrants, and Ameriasians from Vietnam; and
- D. The prospective adoptive parent(s)' home, and all adult household members, is an approved adoptive home that has met the following background checks:
1. The fingerprint based FBI and State clearances for adoptive parent(s) and all adult household members have been completed in accordance with federal and state statutes and do not reveal:
 - a. felony convictions for child abuse or neglect, spousal abuse, a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; and
 - b. within the past 5 years, convictions for physical assault, battery or a drug-related felony.
 2. The Child Abuse and Neglect clearances have been completed for adoptive parent(s) and all household members, including checking the child abuse and neglect registries in all states where an adult resided within the preceding 5 years, in accordance with federal and state statutes.
- E. Children who have special needs but who are not citizens or permanent residents of the U.S. and were either adopted in another country or brought to the U.S. for the purpose of adoption are categorically ineligible for adoption assistance, except if the child meets the eligibility criteria after the disruption of the international adoption.
- F. In determining IV-E adoption assistance eligibility for a child receiving IV-E Kinship Guardianship Assistance Payments (KinGAP), the child's placement with the relative guardian and any KinGAP payments made on behalf of the child shall be considered to never to have been made. This applies where the guardianship is dissolved and the child is later placed for adoption with the same relative guardian or another individual.

6.4 APPLICATIONS

6.4.1 General

- A. Application and a signed adoption assistance agreement for adoption assistance, including nonrecurring adoption expenses or medical assistance, must be filed with the department prior to the date of the court hearing at which the adoption is finalized;
- B. On request, the Sections will give or mail to all applicants DHS 1570, "Application for Adoption Assistance."
 - 1. Assist applicant in completing required information. Information on the child may not be known to the applicant and may be available in the agency record, if child is known to the Department;
 - 2. Ensure that the application is signed and dated by each adoptive parent before processing;
 - 3. When the child is placed in the home for the purpose of adoption, the DHS 1613, "Adoption Placement Agreement," must be filed in the child's record.

6.4.2 Adoption Agency as applicant for child for federally funded adoption assistance

- A. For purposes of case planning, adoption agencies may make a preliminary application for Title IV-E adoption assistance on behalf of a child known to them. When a prospective adoptive family has not yet been selected, the name of the applicant shall be the adoption agency and the signature that of the agency's caseworker. When the child is placed for adoption, that agency's adoption placement agreement should be substituted for the DHS 1613, "Adoption Placement Agreement."
- B. Via CPSS request notice K504, "Notification of Disposition of Application," to inform applicant(s) of eligibility for adoption assistance. It is possible the amount of the subsidy payment may not yet have been determined. (The subsidy amount and the medical and social services requested and authorized must be noted on the DHS 1578, "Adoption Assistance Agreement.")
- C. When application is received after the adoption is finalized, via CPSS request notice K504 to notify applicant of ineligibility and

right to appeal by administrative hearing.

- D. If determined eligible, forward the Adoption Assistance Agreement, DHS 1578, for the adoptive parents to complete and return. The agreement must then be signed by the adopting parent(s) and the Section Administrator prior to adoption finalization in order to grant adoption assistance.

6.5 ELIGIBILITY DETERMINATION

6.5.1 Child's Needs

- A. In the process of assessing the child's situation for the purpose of adoptive home placement, determine if the child's needs are such that adoption is not likely without a subsidy and/or medical assistance:
 1. Document in the case narrative home finding efforts to locate a suitable adoptive home without subsidy and/or medical assistance. Forward requests to register with adoption registry or exchange to PD-CWS;
 2. Identify barriers to placement in a suitable home without subsidy and/or medical assistance;
 3. Document in the case narrative the period of agency supervision and efforts to locate a suitable adoptive home.

If the foster family or other qualified person with whom the child has been living has expressed interest in adopting the child, and the Department has determined that adoptive placement with this family or person is appropriate, no other efforts to place the child without adoption assistance need to be made. In all other cases, reasonable efforts to locate an adoptive home without subsidy must be made in accordance with 6.3.1.A.3 above. The worker should explore both local and out-of-state adoption registries to determine if a home without subsidy and/or medical assistance is available.

"Other qualified person or persons" includes caregivers such as foster parents, relatives, permanent custodians/guardians and persons in hanai relationship with the child. Some flexibility was written into the rule to include these other situations/caregivers who meet all the qualifications in order to attain permanency through adoption for the child or children in the home.

- B. Determine whether the child meets the definition of a child with

special needs as outlined in 6.3.1.A above:

1. For children in the custody or care of a licensed child placing agency, request that the agency provide required documentation. (Suggested Format for Documentation has been sent to licensed child placing organizations for their use;
2. If no agency was involved in the placement, adoptive parents must provide required documentation (refer to Suggested Format at the end of procedures.
3. With respect to documenting whether the child is unable to be returned to the parents' home, determine whether there is one of the following:
 - a. a court order terminating parental rights; or
 - b. a petition for termination of parental rights; or
 - c. a signed relinquishment by the parents.

File verification in part I of case record.

- C. For a child who is not an "applicable child" (as defined in 6.5.2.A. below), if the child is voluntarily relinquished to the department or a licensed private non-profit child placing organization by the natural parents, a petition must be filed within six months of the child's last residence with the parents/specified relative from whom removed, resulting in a judicial finding that returning to the home of the natural parents/specified relative would be contrary to the welfare of the child (or similar language). File a copy of the court order in part I of the case record.
- D. Determination of IV-E eligibility/AFDC, SSI relatedness: Refer case to FC-IM Worker/Unit using the "Request to Determine Title IV-E Adoption Assistance Eligibility" experimental form DHS 1530.

6.5.2 Federal Adoption Assistance Eligibility Determination Process

- A. Title IV-E – "Applicable Child" Adoptions
 1. Effective 10/1/2009, a child is considered an "applicable child" if:
 - a. The child turns the required minimum age (see chart below) by the end of the Federal Fiscal Year (FFY) in

which the Adoption Assistance Agreement is signed; or

FFY	Age	Applicable Child must be born before	FFY	Age	Applicable Child must be born before
2010	16	10/1/1994	2014	8	10/1/2006
2011	14	10/1/1997	2015	6	10/1/2009
2012	12	10/1/2000	2016	4	10/1/2012
2013	10	10/1/2003	2017	2	10/1/2015
			2018-2024	2	

- b. The child has been in foster care for any 60 consecutive months (5 years) prior to the finalization of the adoption ⁴; or
 - c. Prior to the finalization of the adoption, the child has a sibling who meets 6.5.2.A.1.a. or b. above and is to be placed in the same adoptive placement of the applicable sibling.
2. In addition to meeting the special needs criteria specified in 6.3.1.A above, an “applicable child” must meet one of the four following criteria to be eligible for Federally-funded adoption assistance:
- a. At the time of adoption petition, the “applicable child” was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to an involuntary removal with a judicial CTW determination or a voluntary placement agreement or voluntary relinquishment;
 - b. Prior to finalization of the adoption, the “applicable child” meets all medical or disability requirements of SSI as determined by the state;
 - c. The “applicable child” is a child of a minor parent, and the minor parent was involuntarily removed pursuant to a court order with a judicial CTW finding, or the minor

⁴ Placements in hospitals, therapeutic residential facilities, or juvenile justice facilities while the State maintains responsibility for placement and care DO NOT count toward the 60 consecutive months in foster care. However, if the child is in foster care (whether IV-E or not) for at least one day during the month, the State CAN count that month and not have to start the 60-month count anew.

parent was placed into foster care pursuant to a signed voluntary placement agreement, or the minor parent was voluntarily relinquished;

- d. The “applicable child” was receiving IV-E AAP in a previous adoption, but the adoption later dissolved and adoptive parents’ rights were terminated or the adoptive parent(s) died;

B. Title IV-E – Non “Applicable Child” Adoptions

In addition to meeting the special needs criteria (as described in 6.3.1.A above), a child needs to meet one of the four following criteria:

1. **AFDC eligibility** (as in effect on July 16, 1996):
 - a. Verify that DHS 1577A form determining AFDC eligibility with the specified relative from whom removed in the month of removal (as described above in 6.3.2.B.1.) is in FCIM file. File a copy of the DHS 1577A along with the exp DHS 2012-04 “Adoption Assistance Determination – Non “Applicable Child” to document AFDC eligibility in the month of removal ⁵.
 - b. If DHS 1577A for the month of removal is not available, check the CPSS and the case record documents to determine if the child was removed in accordance with 6.3.2.1.B.1 above. Refer to Part V, Section 3, Federally Funded Foster Care Maintenance Payments 3.5.2.E through H to complete the verifications necessary to determine child’s AFDC eligibility with the specified relative from whom removed in the month of removal. FCIM will complete a DHS 1577A to document the AFDC eligibility in the month of removal and file it with the exp DHS 2012-04; or

⁵ For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child needed to be AFDC eligible both in the month of the initiation of the adoption proceedings (i.e. filing of adoption petition) and in the month of the child’s removal from the home of a specified relative. Documentation of the child’s AFDC eligibility in the month of the initiation of the adoption proceedings also needed to be on file.

For children who were removed prior to January 23, 2001, the child could be AFDC eligible either in the month of the initiation of the adoption proceedings or in the month of the child’s removal from the home of a specified relative. Documentation of the child’s AFDC eligibility for either month needed to be on file.

2. **Child of a Minor Parent:** The child is the child of a IV-E minor parent and for whom the foster board paid on behalf of the minor parent covers both the minor parent and the minor parent's child prior to the finalization of the adoption ⁶; or
 - a. Check FCIM file to verify child's minor parent is IV-E, and check CPSS to verify that the foster board covers both minor parent and the child.

 3. **SSI eligibility** The child must be determined by Social Security Administration to be SSI eligible prior to the finalization of the adoption ⁷; or
 - a. Check case record documentation and HAWI system BENDX/SDX screens to determine whether or not the child was determined eligible for SSI benefits prior to the finalization of the adoption.

 4. **Prior IV-E Adoption:** The child was receiving IV-E AAP in a previous adoption and the adoption later dissolved and adoptive parents' rights were terminated or the adoptive parent(s) died.
 - a. Copy the original exp. DHS 2012-04 "Adoption Assistance Determination – Non "Applicable Child" form or exp. DHS 2012-03 "Adoption Assistance Determination – "Applicable Child" form and file with the subsequent exp. DHS 2012-03 or exp. DHS 2012-04 in the FCIM file.
- C. In determining whether a child receiving Title IV-E funded kinship guardianship assistance is eligible for Title IV-E adoption assistance, the child's placement with the kin guardian and any kinship guardianship payments made on behalf of the child shall be considered never to have been made. This applies where the guardianship is dissolved, and the child is later placed for adoption with the same kin guardian or another individual.
- D. The CWS worker shall ensure that the adoptive family had a home

⁶ For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child must meet the requirement by the initiation of the adoption proceedings.

⁷ For children whose adoptions were finalized prior to October 1, 2005 and were removed on or after January 23, 2001, the child must have determined eligible for SSI by the initiation of the adoption proceedings.

study and had been approved for placement of a child. If not, refer family for home study per Branch procedures. The CWS worker shall document in the case narrative information on the home study, disposition and date.

- E. The CWS worker shall ensure that the child is not eligible to receive or is not receiving adoption assistance from another State.
- F. The CWS worker shall coordinate with PD-CWSB, Hawaii Interstate Compact on the Placement of Children (ICPC), to ensure that the requirements of the ICPC are met for minors born in another State who are placed into Hawaii with prospective adoptive/ adoptive parents or for minors moving with prospective adoptive parents into Hawaii.
- G. Documentation for Adoption Assistance Eligibility Determination
 1. The CWS worker shall document in the case narrative that eligibility requirements were met for approval of adoption assistance.
 2. The CWS worker should forward with DHS 1530, "Request to Determine Title IV-E Adoption Assistance Eligibility" to FCIM unit.
 3. The CWS case record shall have copies of verification of age, U.S. citizenship/qualified alien status, parental deprivation and parent's and child's income and assets. The FC-IM worker shall use the necessary documentation/verification that are outlined in the CWS procedures Part V, Section 3 Federally-Funded Foster Care Maintenance Payments, 3.5.2 to determine eligibility for federally- or state-funded adoption assistance.

The FC-IM worker shall verify child's citizenship or qualified alien status using the child's birth certificate, U.S. Citizenship & Immigrations Services documentation (e.g. I-94 or Permanent Resident card), or documentation in the HAWI system.

The FC-IM worker shall verify with the CWS worker that the qualified alien child has resided in the U.S. for 5 years or more if the child entered the U.S. on or after August 22, 1996, unless the child is being adopted by a U.S. citizen or qualified alien.

If the qualified alien child who entered the U.S. on or after August 22, 1996 is not being adopted by a U.S. citizen or qualified alien or has not lived in the U.S. for 5 years prior to

adoption finalization, the child would not be eligible for Title IV-E adoption assistance.

Permanency Assistance payment received for a child in the permanent custody/legal guardianship of a caregiver is considered to be foster board payment, not income to the child.

4. The FC-IM worker shall check CPSS service screens to determine whether the child meets the “applicable child” requirement for having been in foster care for any 60 consecutive months prior to the finalization of the adoption.
 - i. Placements in hospitals, therapeutic residential facilities, or juvenile justice facilities do not count toward the 60-consecutive-months requirement;
 - ii. However, if the child is in foster care (whether IV-E or not) for at least one day during the month, the FC-IM worker can count that month and not have to start the 60-month count anew;
 - iii. Runaway episodes in which DHS retains responsibility for the placement and care of the child may count toward the 60-consecutive-months requirement; and
 - iv. A trial home visit in which DHS considers the child to be in foster care may count toward the 60-consecutive-months requirement.
5. FC-IM worker completes eligibility determination for federally-funded or state-funded adoption assistance on form exp. DHS 2012-03 or exp. DHS 2012-04, and files it along with a copy of the original DHS 1577A done at child’s foster care removal or the one completed at time of adoption eligibility determination.
6. FC-IM worker completes the form DHS 1577C to notify Med-QUEST of the child’s eligibility status for Title IV-E adoption assistance.
7. If eligible for federally-funded adoption assistance, FC-IM worker update the case in CPSS and, using CU24, enter eligibility category "F". Refer to CPSS User Instruction Manual.
8. If ineligible for federally-funded adoption assistance but eligible for state-funded adoption assistance, update case in CPSS and, using CU24, enter eligibility category "Q".

9. If unable to determine eligibility for federally-funded adoption assistance, enter eligibility category "P".

10. FC-IM worker shall document in CPSS in the IV-E subsystem on the IV-E eligibility comments screen reason for eligibility, pending or ineligibility.

H. If the child is not eligible for federally-funded adoption assistance, the child may receive state-funded adoption assistance and will qualify for state medical assistance. Complete DHS 1100, "Application for Medical Assistance," and forward to the appropriate Med-QUEST Unit.

6.6 ADOPTION ASSISTANCE AGREEMENT

6.6.1 Adoption Assistance Agreement

- A. The "Adoption Assistance Agreement" DHS 1578:
1. Must be signed and in effect at the time of or prior to the finalization of the adoption and a copy of the signed agreement must be provided to each party; and
 2. Must specify the duration of the agreement; and
 3. Must specify the nature and amount of any payment, services, and assistance to be provided under Title XIX and Title XX of the Social Security Act, and specify that the child is eligible for Medicaid services and social services; and
 4. Must specify that the agreement shall remain in effect regardless of the state in which the adoptive parents reside at any given time; and
 5. Must contain provisions for the protection of the interest of the child in case the family moves to another state while the agreement is in effect.
- B. Complete the following processes:
1. Complete DHS 1578, "Adoption Assistance Agreement," as agreed upon in discussion with the adoptive parent(s);
 2. If more than one (1) child is being approved for adoption

assistance, a separate agreement is to be completed for each child;

3. Review the terms of the agreement with the adoptive parent(s) to ensure their complete understanding and agreement;
 4. Ensure that each adoptive parent signs and dates the agreement at the time of or prior to the final decree of adoption;
 5. Obtain Section Administrator's signature as the authorized Department representative, and the date the Adoption Assistance Agreement was signed, before forwarding/filing the agreement.
- C. For Non-recurring adoption expense reimbursement:
1. For a child eligible for federal or state funded adoption assistance, enter expense amounts on agreement, under I.A;
 2. For children not receiving federal or state-funded adoption assistance, enter expense amounts using Adoption Assistance agreement that was entered into prior to the finalization of the adoption, completing only the first page, A., and V., and document:
 - Special needs (see 6.3.1.A)
 - Citizenship or qualified alien status.

Complete Adoption Assistance Agreement, section I.A. Once determined, adoption assistance eligibility continues without redetermination, except for circumstances listed in 6.18.A.

6.6.2 Amount

- A. Upon determination of child's eligibility for adoption assistance, negotiate with applicants the amount of the monthly subsidy (maximum = foster board rate) and/or the nonrecurring adoption expense reimbursement (maximum = \$2,000).

Determine with the adoptive parents the maintenance needs of the child and the amount of the subsidy required to meet that need, taking into consideration the family's circumstances and what they indicate they are able to provide.

- B. If child is receiving SSI benefits, Eligibility Category "S", he/she is concurrently IV-E eligible. The adoption assistance subsidy will be claimed under IV-E which will reduce the child's SSI benefit. Adoptive parents should apply immediately as new payees for benefits upon finalization. As their income will be taken into account for SSI, it is possible the child will lose the SSI benefits.
- C. In cases where an application filed after finalization has been denied and a subsequent administrative hearing has resulted in a finding of eligibility, the amount of payment, if any, should be based on (b)(c)(d), retroactive to the date of onset of physical/mental/ emotional disability necessitating extraordinary services and payment processed from that date.

6.7 OVERPAYMENT AND RECOUPMENT

When non-fraudulent overpayment has occurred, recoupment of overpaid amount can be accomplished through reduction of future payments, but only with the documented concurrence of the adoptive parents.

When overpayment has occurred due to adoptive parents' failure to notify the department of a change in circumstances under 6.17.A or 6.18.A below which renders the child ineligible for subsidy payments, parents shall be notified that payments may be suspended with the adoptive parents' consent, enter into a recoupment agreement, or terminate payments, if applicable.

6.8 ELIGIBILITY FOR MEDICAL ASSISTANCE

Upon approval of child's eligibility for federally funded adoption subsidy, child is eligible for benefits and services under the State's Title XIX Medicaid Program (Child is considered to be an AFDC child).

Refer to Med-QUEST Unit for medical assistance. Use DHS 1577 C, "Notification of IV-E Eligibility" to Med-QUEST Division.

6.9 ELIGIBILITY FOR TITLE XX SOCIAL SERVICES

Upon approval of child's eligibility for adoption subsidy, child meets the income requirement for benefits and services under the State's Title XX social services program, as an AFDC child.

Follow procedures for Title XX programs for notification of Eligibility, Authorization and Termination of services.

6.10 ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER STATE-FUNDED ADOPTION ASSISTANCE

Upon approval of child's eligibility for state funded adoption subsidy, apply for Hawaii state medical assistance:

Refer to Med-QUEST Unit for medical assistance using DHS 1100, "Application for Medical Assistance."

6.11 DETERMINATION OF ADOPTION ASSISTANCE SUBSIDY

6.11.1 General

The amount of subsidy payment shall be negotiated between the adopting parent(s) and the Department, taking into account the child's needs and family's statement as to ability to provide for these. **(To calculate amount of difficulty-of-care payment, see CWSB Procedures Manual, Part V, Section 4)**

6.11.2 Social Security benefits

If child is receiving any of these benefits, parents should apply immediately as new payees for benefits upon finalization. As their income will be taken into account for SSI, it is possible the child will lose those benefits. Adoption assistance payment will then have to be adjusted.

Note: Child may be eligible for both Title IV-E and SSI, but may not receive payments from both. Once the child is adopted Social Security Administration (SSA) should be notified, DHS should request to be removed as Representative Payee, and inform SSA whether child is receiving Title IV-E adoption assistance and the amount.

6.12 METHOD OF PAYMENT

- A. Add SAC F103 in CPSS via screen CA50 and authorize benefit on screen PC30 to initiate cash payment. Initial payment to conform with 17-1620-7.
- B. The reimbursement of nonrecurring adoption expenses shall be authorized upon submittal of an itemized bill or receipt reflecting reasonable and necessary charges for the nonrecurring adoption expenses. Eligibility Category on screen CA22/CU24 should be coded "F" for Federal Title IV-E adoption assistance children, "Q" for State funded adoption assistance children, "P" if unable to determine IV-E eligibility.

Payments may be made via check to the adoptive family or via purchase order to vendors. On CPSS screen CA50, add SAC Q104 for adoption home study fees, attorney fees, etc., or use SAC Q105 for airfare

expenses only. Authorize benefits on CPSS screen PC30. Copies of receipts must be filed in case record and must also accompany FMO-Accounting copy of purchase orders. File a copy of the purchase order in the case record.

6.13 INITIATION OF ADOPTION ASSISTANCE

6.13.1 General

- A. Review the DHS 1578, "Adoption Assistance Agreement," for completeness - ensure that data is current and the Agreement is signed by the adoptive parents and the Department.
- B. Initiate the adoption monthly subsidy payment no earlier than the date of the signing of the Adoption Assistance Agreement and date of the child's placement into an approved adoptive home (according DHS 1613, "Adoption Placement Agreement").
- C. In CPSS payment system, use service action code F103 for monthly subsidy payment.

6.13.2 Deferral

- A. Deferral of payment. At the time Adoption Assistance Agreement is signed, payment of monthly subsidy may be unnecessary, but may be needed at a later date, due to either:
 - 1. The adoptive family declining payment at that time; or
 - 2. Child's receipt of SSI benefits which may terminate, depending on adoptive family's Income; or
 - 3. Eligibility being based on high risk of a physical or mental disability which is not currently apparent.
- B. In this case, check "deferred payment" box on page 2, part B of agreement form DHS 1578, payment amount=\$0. Case should remain active, without biennial review. To subsequently initiate payment based on 3. above, the parents must furnish certification from the treating professional that a physical or mental disability exists.
- C. To initiate payment upon such certification, it is necessary to first enter a Goal. Use Code 7B.

6.13.3 Medical Assistance

To initiate medical assistance (Title XIX) and/or social services (Title XX), refer to 6.8-9. Either one or both may be provided without monthly subsidy payment.

6.13.4 Payment

- A. For payment of nonrecurring adoption expenses, use service action codes Q104 and Q105 as appropriate. Issue payment after date of court hearing at which adoption is finalized.
- B. Where an application filed after finalization has been denied and an administrative hearing has resulted in a finding of eligibility, payment should be effective for the period indicated by 17-602.1-16(d)(2) for state assistance, but not earlier than the date of finalization for federal assistance. Refer to 17-1620-12 Procedures for determination of amount of retroactive assistance.

6.14 DURATION OF ADOPTION ASSISTANCE

- A. Determine, with participation of adoptive parents, child's continued need for adoption assistance beyond the age of 18 years.
- B. Request that adoptive parent obtain documentation of child's mental or physical disability from physician or other professional providing service, the treatment and/or equipment necessary, and the prognosis.

Guidelines for continuing adoption assistance beyond age 18 to age 21:

- 1. Child's physical or mental disability requires ongoing medical supervision or treatment according to documentation received from physician or other professional service provider; or
 - 2. Child's physical or mental disability is a barrier to achieving and maintaining the goal of self-sufficiency according to documentation received from physician or other professional service provider; and
 - 3. Adoptive parents indicate their inability to meet child's need without adoption assistance and/or medical benefits.
- C. An adopted child receiving federally funded adoption assistance (AA) payments is not necessarily eligible for Title IV-E foster care services if placed in foster care. A new IV-E foster care eligibility determination needs to be completed based on the new removal circumstances. Send DHS 1567 to FCIMU.

1. Written consent by the adoptive parents to suspend the AA payments as long as the child remains in foster care **must** be filed in the case record in order to suspend the AA payments.
2. If the adoptive parents do not consent to suspending the AA payments, the AA payments must continue to be paid to the adoptive parents unless any of the situations noted in 6.18 below apply.

6.15 BIENNIAL REVIEW OF ADOPTION ASSISTANCE AGREEMENT (state-funded adoption assistance only)

- A. Mail DHS 1579, "Notification of Biennial Review of Adoption Assistance Agreement" to adoptive parent(s) at least 60 days prior to the anniversary date of the Adoption Assistance Agreement.
- B. Upon receipt of the information requested from the adoptive parent(s) ascertain if changes in child's or family's circumstances necessitate revision of Adoption Assistance amount. If so, with the consent of the adoptive parents, draft new agreement and forward, with cover letter, to adoptive parents for signature.
- C. Enter next review date in CPSS, using eligibility review date in screen CU14.

6.16 ELIGIBILITY FOR ADOPTION ASSISTANCE OUTSIDE THE STATE

6.16.1 Move from Hawaii

3. Upon notification by the adoptive family of their change of residence outside the State, update address in CPSS in HA12 screen. Verify address change on screen PC30.
4. For adoptive families receiving state funded adoption subsidy who move outside the state and have difficulty obtaining medical care under our state's Title XIX Medicaid program, instruct family to contact the local Medicaid office in the new state of residence for liaison/coordination with our Med-QUEST unit.
5. For adoptive families receiving Title IV-E adoption subsidy who move outside the state, instruct family to contact the local welfare or social services agency in the new state of residence for Title XIX Medicaid and Title XX social services.

Refer to Part III, Section 9: INTERSTATE COMPACTS.

Complete DHS 1652, "Notice Concerning Eligibility of Title IV-E Foster Care/Adoption Assistance Recipient for Medical Assistance," and instruct adoptive parents to present the form to the new resident state medical assistance unit. The new resident state may request a copy of the Adoption Assistance Agreement for verification of family's eligibility for adoption assistance and thereby Title XIX Medicaid.

6. All adoptive parents shall be advised that the scope and content of medical assistance programs vary from state to state. While Hawaii's Title XIX program pays for most medical services and benefits permitted under Title XIX, states are not required to provide all the medical services allowable under Title XIX.

6.16.2 Move to Hawaii

For adoptive families receiving Title IV-E adoption subsidy from another state who move to Hawaii, instruct family to make application for Title XIX Medicaid at Med-QUEST Unit.

6.17 REPORTING CHANGES

- A. The adoptive parent(s) shall inform the Department within 30 days of occurrence of any circumstances as described in 6.18.A. that would make the adoptive parent(s) ineligible for adoption assistance or change the adoption assistance subsidy amount.
- B. Failure to notify the Department of changes in circumstances that would affect the child's eligibility for adoption assistance shall be investigated for suspected fraud.
- C. In situations where fraud is suspected, the provisions of 17-604.1 shall apply.

6.18 TERMINATION OF ADOPTION ASSISTANCE

- A. When any of the following situations apply:
 1. The child has reached the age of 18 years;
 2. The child has reached the age of 21 years in the case when the Department extended the adoption assistance agreement upon determining the child had a disability warranting the continuation of adoption assistance
 3. For state-funded adoption assistance only, the end of the high school

year in which the child is attending and turns 20 years old;

4. The Department determines that the child is no longer receiving financial support from the prospective adoptive or adoptive parent(s);
 5. The Department determines that the adoptive parents are no longer legally responsible for the support of the child;
 6. The adoptive family is able to assume full financial responsibility and requests termination of payments and services;
 7. Reimbursement for non-recurring adoption expenses is completed and the family is not eligible for other adoption assistance;
 8. The adoption is not approved in accordance with HAR 17-805 as an appropriate adoptive home for the child; or
 9. The prospective adoptive parent(s) elect not to adopt the child.
- B. Document in the case record and terminate the line of service and benefit for SAC F103 in CPSS on screen CU50.
- C. Authorize the benefit on screen PC30 for the final payment (if it has not yet been issued).
- D. Request notice G509 or K509 via CPSS:
- On PC30 and while authorizing the benefit for final payment; **OR**
 - On PC70 by using the **OTHER** request line.

Complete the G509 or K509 notice correctly and completely in simple language, cite applicable rules governing the action for termination of adoption assistance.

6.19 APPEALS AND ADMINISTRATIVE HEARINGS

- A. Refer to 17-602.1-7 for action to be taken if recipient files an appeal within 90 days of the date of notice.
- B. Where an administrative hearing on an application filed after finalization has resulted in a finding of eligibility, payment should be effective for the period indicated by 17-602.1-16(d)(1 for state assistance, but not earlier than the date of finalization for federal assistance. Refer to 17-1620-12 , Procedures, for determination of amount of retroactive payment.

The amount of retroactive payment, if any, should be based on Part V,

and the amount of expense for the child's care which has been incurred since the date of application.