

April 14, 2023

To: Administration for Children and Families

Re: Comment on RIN-0970-AC91

Requested Considerations

We are writing in strong support of the proposed regulation, and propose additional guidance to avoid further unnecessary barriers and significant delays in fully supporting kinship placements (inclusive of relatives and fictive kin). Allowing title IV-E agencies to develop common-sense kin-specific licensing or approval standards will empower them to improve the lives of children and families experiencing the foster care system. Once implemented, this regulation will lead to more children being placed with kinship caregivers who know and love them, more quickly, and allow each child in foster care to be equitably financially supported, whether in a kin or non-kin home.

We especially applaud the Administration for Children and Families for its explicit guidance and encouragement that requirements for kinship licensing or approval processes be limited to federal safety requirements, and nothing else:

Specifically, ACF encourages title IV-E agencies to strongly consider developing standards for relative and kinship foster family homes that meet only the requirements in the Act described earlier (i.e., section 471(a)(10)(A) and (a)(20)), and not additional standards the agency requires non-relative foster family homes to meet.

We also strongly recommend that the final regulation clarify that eligibility for federal financial participation (FFP) in foster care maintenance payments (FCMPs), be predicated (or based) on the completion of the in-state background and child abuse and neglect registry checks, and initiation of the remaining two steps: the fingerprint-based check and any applicable out-of-state child abuse and neglect registry checks. We make this recommendation because these last two steps can take significant time—often months—to complete. These are months that the same child in state custody placed with their kin is not provided financial support as compared to if they were placed with a non-kin foster parent. It also keeps some children in foster care longer than they need to be, because for a child to be eligible for title IV-E guardianship assistance, they must have been receiving foster care maintenance payments for at least six months.¹

¹ Section 473(d)(3)(A)(i)(II): “... eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.”

To understand more about these potential barriers, we interviewed 45 state and tribal title IV-E agencies during March and April 2023 about their current background check process.² These agencies represent approximately 315,153 children in care today. Approximately 136,809 of these children are placed with kin.

Across these agencies, it takes an average of 160³ days to license a kinship foster home today, which means that in most communities, children in foster care with kin are going without full foster care maintenance payments for at least that long. In the states, tribes, and counties that pay kinship caregivers full or partial foster care maintenance payments from the time of placement entirely from their own funds, those are resources that could be redirected towards prevention and/or permanency.

We, in collaboration with other national child welfare organizations, will be jointly publishing new recommended kin-specific licensing and approval model standards⁴ later this year, which will include many of the promising practices we learned from agencies regarding the background check process. Most of these practices, such as using mobile fingerprinting machines and providing community-based fingerprinting options that are not in police stations, are within agency control. We will incorporate that feedback into the standards for agency consideration and implementation. **But it is clear from our research that clarification from the Administration for Children and Families is needed to ensure fingerprinting and out-of-state child abuse and neglect registry checks do not stand in the way of this new rule immediately helping children and families at day one of placement.**

We propose that FFP should be available to title IV-E agencies for FCMPs paid to kinship caregivers under their kin-specific licensing or approval process upon:

- Completion of the in-state background check⁵;
- Completion of the in-state child abuse/neglect registry check;
- Initiation of FBI fingerprints; and
- Initiation of any applicable out-of-state child abuse and neglect registry checks.

We are pleased to share more data from our deep dive below.

² We also solicited feedback on the process from kinship caregivers across the country.

³ All averages in this report are weighted based on the number of children in foster care in each state.

⁴ The organizations involved in developing these new standards include: A Second Chance Inc., American Bar Association Center on Children and the Law, Children's Rights, CWP Policy, Generations United, National Indian Child Welfare Association, National Association for Regulatory Administration, New America's Resource Family Working Group, and Think of Us. More information can be found at: <https://childwelfareplaybook.com/kinship-caregivers>

⁵ Note that in about half of states, these "in-state" checks include national data, too.

Proposed Guidance

We believe that clarification of the steps necessary for IV-E agencies to begin receiving FFP for FCMPs paid to kinship caregivers can be achieved using the current proposed regulation language, *without further change*.

We propose that the Administration for Children and Families instead clarify in guidance that “satisfies” for a relative or kinship foster family home means:

- Completion of the in-state background check;
- Completion of the in-state child abuse/neglect registry check;
- Provision of instructions for submitting fingerprints for checks of the national crime information database, with a policy that these fingerprints must be completed within a maximum of 15 days (and allowance for IV-E agencies to grant case-by-case extensions for kin in rural or remote areas, or for physical impairments preventing a successful fingerprint⁶); and
- Submission of any applicable out-of-state child abuse and neglect registry checks.

However, if the Administration for Children and Families believes that a regulation edit is necessary, then we would propose the following:

Title IV-E agencies may, however, claim title IV-E reimbursement during the period of time between the date a prospective **non-kin** foster family home satisfies all requirements for licensure or approval, **or the date a child has been placed in a relative foster family home for which all requirements for licensure or approval have been initiated**, and the date the actual license **or approval** is issued, ~~not to exceed ### days.~~

Current language for reference:

Title IV-E agencies may, however, claim title IV-E reimbursement during the period of time between the date a prospective foster family home satisfies all requirements for licensure or approval and the date the actual license is issued, not to exceed 60 days.

⁶ In most states, if an individual has missing or worn fingerprints (e.g., because they are elderly or a hairdresser working with chemicals), they must attempt fingerprinting twice and have both attempts rejected before they can proceed to an alternative. This also takes significantly more than 15 days.

Background Information and Suggested Implementation Practice Changes

Current Emergency Placement Processes in Agencies

Every agency we spoke with allows placement with kin⁷ based on the following⁸ background check requirements:

- Completion of the in-state background check; and
- Completion of an in-state child abuse/neglect registry check.

Every agency completes the above two steps on the same day as placement, generally within one hour. We have no concerns about making kinship licensing or approval contingent upon completion of these steps.

Since every agency uses this criteria, and **no** agency requires fingerprinting or out-of-state child abuse and neglect registry checks to be completed prior to emergency placement with kin, **our proposal does not introduce any practice changes or new safety concerns. It would instead resolve the safety concern of placing children with a kinship caregiver without adequate support, allowing more kinship caregivers to get licensed or approved faster and to access related supports starting at time of placement instead of months later.**

While every agency allows placement under the above criteria, many will *remove* a child from kin if the rest of the licensing process is not completed in an arbitrary number of days (generally 60-90 days), creating a second traumatic removal. This underscores another positive impact of this rule change overall. Removing unnecessary licensing requirements for kin will prevent downstream disruptions caused by non-safety reasons, such as not completing all training hours or not moving to a larger home.

⁷ Oklahoma is the only state that does not allow emergency placement with kin if that person resided in another state in the last five years.

⁸ Every agency also requires a safety walkthrough of the home, which we do not discuss here because that step is not related to background checks. A small number of agencies also require a unique additional check, such as motor vehicle records and/or adult abuse registry checks as part of their emergency placement process with kin, but in all cases these state-specific checks can be completed instantly.

Current Fingerprinting Processes

Fingerprinting has at least three steps: capturing and transmitting the fingerprints; getting the fingerprint results back; and adjudicating the results.

Of the 45 agencies we spoke with, none require fingerprinting before placement. Ten agencies never require fingerprinting if the kin are not licensed. Of the 35 agencies that require fingerprints regardless of licensing status, each has a required timeframe for getting fingerprinted, averaging 16 days.

Once fingerprints are submitted, it varies greatly by agency as to how long it takes for results to come back. Responses ranged from instantly to 270 days, averaging 24 days. Only 18 agencies report reliably getting results back within 72 hours. Speed was generally attributed to use of a LiveScan electronic machine (as opposed to paper ink fingerprint cards), and to whether the agency had its own direct arrangement for getting the results back, or if another intermediary agency received and transmitted results (which adds delays).

Next, these results must still be evaluated. Some states apply automatic filters on background check results. For example, a non-existent criminal history could lead to automatic approval, and a federally-disqualifying felony conviction could mean automatic disqualification. But if any history is present, and the history is not immediately disqualifying, it must be reviewed. In states with no automated filters, even a blank criminal history requires manual review. This takes an average of 15 days, with 22 agencies reporting it almost always takes less than one week. While one week may not seem long, this is in addition to how long it takes to obtain and process the fingerprints. And, in many cases, such as when an infraction on someone's record does not have a disposition listed, original court and police records must also be requested – we consistently heard this can take months to resolve, especially with out-of-state requests.

For this reason, we reiterate our request that the final regulation clarify that the required criminal and child abuse/neglect background steps need to be initiated, but they do not need to be completed before children in kin placements receive title IV-E FCMPs.

Few agencies maintain data on the overall pass/fail rate of fingerprint-based background check results, especially when decisions are decentralized and made by employees directly working with families. We asked an expert in each state or tribe interviewed to characterize how often they saw a case where a kinship caregiver passed the initial checks, but failed the subsequent fingerprint check based on federally-disqualifying crimes and/or out-of-state child abuse and neglect registry

checks, leading to the child being removed. The answers took the form of “almost never,” “hasn’t happened in my time,” or “I think I may have heard of this happening once.”⁹ In circumstances where there was a failure and the agency could not complete the license or approval, it was reported that these usually converted to court-ordered placements, and the child remained in the home but without equitable financial support.

Experts shared with us that the initial background checks and initial conversations with kinship caregivers result in few surprises when the fingerprint results come back. **This means very, very few placements are disrupted based on the fingerprint results, yet financial support is being withheld from most kin.**

Of great significance, we echo the comment submitted by the National Indian Child Welfare Association (NICWA) highlighting the negative impact delayed federal reimbursement has on many tribes, where it can take months to process fingerprint-based background checks due to complicated and limited tribal access to FBI databases:

We suggest that tribal Title IV-E agencies be allowed to claim reimbursement upon initiation of national criminal background checks and full completion of statewide background checks of foster homes, which are much easier to access and quicker to provide findings in most cases. This change could benefit AI/AN children and their relative and kinship caregivers by ensuring receipt of financial assistance sooner as well as supporting tribes in running their Title IV-E programs and eliminating the need for tribes to pull from limited tribal funds.

We are not suggesting that these checks are of low value — we suspect the fingerprints have a strong deterrent effect, with individuals with disqualifying criminal history not applying for placement in the first place. If anything, we are actually concerned this deterrent effect may be *too* strong. Some kinship caregivers (and case workers) shared that they (incorrectly) believed that any criminal history at all, no matter how minor, would disqualify them, and therefore did not even attempt to become approved as a placement.

We propose that giving instructions about how to provide the fingerprints necessary for checks of the national crime information database qualifies as the “initiation” of fingerprinting, provided an agency has a policy to complete the fingerprints within a

⁹ One county did indicate this happens more frequently, but they could not distinguish how often the failure was based on state-specific barrier crimes which exceed those required by federal law.

certain number of days after placement.¹⁰ This policy regarding the completion of fingerprints should not exceed 15 days, with an expectation of support from the title IV-E agency to assist in obtaining fingerprints. At their discretion, title IV-E agencies may grant an extension for families in rural or remote communities, or for physical conditions that make it challenging to take a fingerprint impression. This process would align, or be attainable with minor practice change, with the same-day placement practices of every agency we interviewed.

In summary, it takes an **average of over 55 days** to collect, process, and evaluate the results of fingerprints, with it taking much longer in many cases. Yet, it is extremely unusual for these results to lead to a placement disruption. **Making foster care maintenance payments contingent upon obtaining and evaluating the results of the fingerprint-based background check would deny kinship caregivers financial support (and in some cases, placement in the first place) for weeks to months.** The average American has less than \$1,000 in savings,¹¹ kinship caregivers are significantly more likely to live at or below the poverty line,¹² and kinship caregivers generally receive placement without advance notice. Denying them financial support from day one of placement because of administrative fingerprint delays is harmful and unwarranted, and can have negative effects on children in care.

Suggested Approach to Address Fingerprinting Delays

Our primary recommendation is to make FFP for FCMPs contingent on the initiation and not completion of fingerprints. We also want to point out that the Administration for Children and Families could take steps to address both causes of delays today by providing designated funding and direct connectivity to the FBI's background check system.

On the issue of funding, the Administration for Children and Families could provide grants for agencies to purchase mobile fingerprinting machines and/or stationary LiveScan machines for agency offices, and/or to contract with private providers that can provide more timely results and access to more community-based fingerprinting locations. Paper ink cards cause time delays, especially when they must be mailed and cannot be scanned. Generally, states that have electronic LiveScan fingerprinting

¹⁰ While many of the national partners creating the model standards initially thought that scheduling a fingerprinting appointment should constitute "initiation," our interviews with 45 title IV-E agencies have revealed that the provision of information should be sufficient as, in many cases, particularly in rural or remote areas, scheduling is not a possibility.

¹¹

<https://www.cnbc.com/2022/01/19/56percent-of-americans-cant-cover-a-1000-emergency-expense-with-savings.html>

¹² https://www.acf.hhs.gov/sites/default/files/documents/opre/rb_15_2col.pdf

machines can collect and transmit fingerprints quickly. Mobile machines can eliminate months of delays in supporting families that live in geographically remote or rural (e.g., Montana, Hawaii, Alaska) areas, as well as reaching disabled or homebound adults who cannot easily leave the home. But these machines cost a reported \$10,000-\$20,000 each, putting them out of reach of many agencies.

Many agencies report using their local police stations to conduct fingerprints. This often results in fees as high as \$100 for kinship caregivers. Kinship caregivers shared with us that police stations can be intimidating, inconvenient locations, and often the police do not understand why they are there. This scenario is especially difficult for those who do not speak English fluently. Agencies that have machines in their own offices, or better yet mobile machines, can avoid these scenarios.

Some agencies contract with private providers that offer not only speedy results, but also a multitude of community-based fingerprinting options, such as FedEx or UPS stores. This can work especially well when contracts require at least one location every 30-35 miles across the state and night/weekend hours.

A second cause of delay is when agencies have to go through other state departments, such as a parent Health & Human Services agency or the state Department of Justice. Every “hop” is another delay (in both directions). In some cases, these intermediaries obfuscate background check results, so the child welfare agency cannot see much or, in some cases, *any* of the criminal history.

A third cause of delay is the number of employees who have been appropriately screened and trained to be able to review background check results. In agencies where as few as one person in the entire state is allowed to view results, backlogs can quickly accumulate. Recognizing the workforce challenges experienced by every child welfare agency, providing resources to title IV-E agencies with very few trained staff members to expand this training can speed up background check adjudications.

Some agencies, such as Louisiana, carefully invested in and developed a compliant fingerprinting program with the FBI that their own child welfare agency can administer, eliminating delays caused by intermediary state agencies. Louisiana’s title IV-E agency can fingerprint caregivers right in its own offices, get results same-day, and evaluate the same-day using well-trained staff. Other IV-E agencies report similar speeds using mobile fingerprinting machines used right at time of placement. Federal grants and implementation guidance, co-developed with the FBI, could help more states adopt such a process that allows for same-day fingerprinting, results, and evaluation.

Grants could be contingent upon performance (e.g., the deliverables could be same-day fingerprint results, the availability of a fingerprinting option every 30-35 miles, or the

availability of service in remote, rural, and/or hard-to-reach areas, such as islands) and consider factors such as timeliness, available alternatives and their timeliness, and the number of kinship caregivers who would be positively impacted.

However, even with the most efficient processes in place, there will still be instances when administrative delays, such as the need for an out-of-state court record to resolve a background check that does not have a disposition, can add months of delays. Hence the need for allowing FCMPs at initiation as opposed to completion of fingerprinting.

Additionally, we heard positive feedback about the Tribal Access Program, currently in use by 123 tribes, through which tribes can get fingerprint results in as little as one minute using local kiosks. The Administration for Children and Families could explore developing a similar program for state child welfare agencies.

In our interviews with background check experts outside of child welfare, we heard multiple times about the Child Protection Improvements Act¹³, bipartisan legislation to provide “organizations serving vulnerable populations (children, the elderly, and individuals with disabilities)” with access to national fingerprint-based checks. This law passed in 2018 but has never been implemented. The subsequent Child Care Protection Improvement Act of 2020 tasked the Administration for Children and Families with reviewing the process for obtaining background checks on child care workers under the Child Care and Development Block Grants. We see a collaboration opportunity where one streamlined fingerprinting program could serve multiple interests.

Current Out-of-State Child Abuse and Neglect Registry Checks

Each of the 45 title IV-E agencies we spoke with expressed significant concerns regarding how long it takes some states to return out-of-state child abuse and neglect registry check results, with numerous and consistent reports that certain states take six months or longer to respond. At the time of this report, one state has an automatic reply stating that their processing time is over 120 days. There is also widespread confusion about how to handle requests to systems that do not maintain a registry.



No, we have to keep trying and trying. We could never get out of the endless loop of [agency without a registry].”

¹³

<https://www.mentoring.org/wp-content/uploads/2020/11/115th-Child-Protection-Improvements-Act-summary-002.pdf>

These delays are not being caused by the requesting state. Almost every agency collects information from caregivers and other adults in the home about whether they lived in another state in the last five years very early in their process (generally at placement). For those states that do not collect this information upfront, it would be a straightforward practice change to do so.

42 U.S.C. 671(a)(2)(B) requires a “check,” which agencies currently interpret as “receive results back” but we believe could be clarified to mean “initiated”:

(i) **check** any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

The time it takes another state to respond is completely out of the requesting agency’s control, and places an unfair burden upon both kinship caregivers and title IV-E agencies. Without clarification, this barrier will continue to negatively impact kinship caregivers even after this rule is finalized.

We asked agencies about their procedures if they do not hear back within a certain period of time. 11 agencies have a policy that they can move ahead with approval or licensure if they try multiple times and document their attempts; this can still add up to a delay of six months or longer. However, in the remaining agencies, a kinship caregiver can **never** be approved or licensed until out-of-state results come back. This causes a particularly harmful infinite loop when the other state does not maintain a registry and therefore can never fulfill the request. While there is some guidance¹⁴ in the Child Welfare Policy Manual, there is no guidance about how or whether a requesting agency can proceed in the event of no response.



It’s just too much. The applications are sitting. We can approve it but we can’t draw down federal funds for it, so it just pauses it. There’s no in-between approval.”

¹⁴ See [Appendix](#)

Challenges related to out-of-state child abuse and neglect registry checks are not limited to the issues of no response or timeliness of response. In nearly every interview we conducted, respondents went out of their way to share frustrations with the esoteric requirements of some agencies' request processes.

These frustrations include:

- Requiring a notarized or witnessed signature from the person being checked, which adds days or weeks of delays and creates a financial hardship for the kinship caregiver
- The difficulty of issuing payment to another state for even small processing fees
- Having to send requests in the physical mail instead of electronically
- Having to attach original documents
- States that only send responses if there's a "hit" (so you are never sure if they processed your request)
- Realizing months later that the person they sent the request to has retired, and they have to re-send
- Refusing to respond to requests related to "other adults in the home"

Some of the stories we collected:



It was so hard to get my office to generate the [payment] checks, that we gave up and pay for them out of our office snack fund."

"In the pandemic, the thing I missed most about the office is access to the typewriter. Without it, I can't send a typed Adam Walsh form to [State], like they require."

"[State] requires typed forms. But their PDF isn't fillable."

"[State] requires you to fill out the form in black ink, but sign it in blue ink, or they send it back. And they DO send it back."

"[State's] requirement to fill in the form in black ink and sign in blue ink means I can't fax this form to them, either."

"I have to send in a copy of my badge to [State] along with the Adam Walsh request."

"[State] is horrible. They ask you for every address that you've had in the last 28 years. Not just in that state - every place for 28 years, in order."

"[State] moved to an electronic request system, which is great. But it only allows one account per child welfare system. Someone else from my state already registered, so now I can't."

"I got an email just this morning... for months, they've been sending their request to the wrong person in our state."

Finally, nearly everyone we spoke with complained about the challenge of having to maintain their own list of every other state's child abuse registry check contact information and instructions for how to submit requests to that state. We reviewed these lists, and found errors in 100% of them. These errors can create serious child safety issues, as sending a request to an outdated or inaccurate place adds months of delays.

In summary, it takes months to hear back on many out-of-state child abuse and neglect registry checks, a timeline that is completely out of the control of the requesting agency. Avoidable state-specific inefficiencies, such as requirements for notarized signatures and fees, add administrative burden and time delays. And the lack of a single authoritative guide for how to make a request to each state means every state is operating off outdated information.

Suggested Approach to Address Out-of-State Child Abuse and Neglect Registry Delays

In addition to making title IV-E reimbursement contingent on the initiation and not completion of any applicable out-of-state child abuse and neglect checks, we believe the Administration for Children and Families should include recommendations on fulfilling these checks as part of the implementation guidance for this rule.

Multiple states we spoke with suggested one standardized form for these requests across states. There is precedent for this with ICPC Form 100A¹⁵. Recognizing that there are many other uses for child abuse/neglect registry checks from other states, such as childcare and employment, a standardized form could work for those purposes as well. We spoke with multiple individuals responsible for fulfilling these requests who said they would be open to switching to a standardized form as long as they could participate in designing it.



If there could be a uniform form we would be so excited!"

Beyond a standardized form, we would encourage recommending the following practices¹⁶:

- Require a response to all inquiries (not only “hits”)
- Do not require a notarized or witnessed signature (required by 18 states), which causes significant delays and hardships on kinship caregivers and other adults in the home
- Do not charge a fee, which can cause significant processing delays, and usually end up being paid for by social workers out of their own pockets (18 states charge a fee, ranging from \$3 to \$35)
- Accept and prioritize electronic inquiries (e.g., by email)
- Use a general inbox, not a specific person’s address or email, so that when an employee retires or takes vacation, requests are still processed
- Send results to the requestor, not the caregiver or the overarching agency (some states will only send to the state agency and not to a private agency)
- Do not require anything beyond the data elements that would exist in a standardized form (things not to require would include: 28 years of past addresses, original documents, copies of the requestor’s badge, etc.)

¹⁵ This template was developed by APHSA: https://aphsa.org/OE/AAICPC/ICPC_Regulations.aspx

¹⁶ A compilation of each state’s practices can be found at <https://www.childwelfareplaybook.com/compare/states/Background%20Checks/>

The Administration for Children and Families should also highlight existing guidance on how to handle an out-of-state child abuse/neglect registry requests for agencies that do not maintain registries. No one we spoke with was aware of Child Welfare Policy Manual Question #21, and most have practices that are inconsistent (e.g., they never license or approve a family with a pending request to a state that does not maintain its own registry).

Question 21.¹⁷

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)(2)(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)(2)(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.

As for the challenge of not having an authoritative guide for submitting a request in each state, the Administration for Children and Families can easily solve this problem by maintaining the master guide itself, updated by regional analysts. This guide can be extraordinarily simple: a list published on a Web page containing the name of the state and the URL of its instructions page.

This master guide should also indicate whether an agency maintains a registry. It should not be the responsibility of every individual title IV-E agency to keep track of which other title IV-E agencies maintain central registries. For example, this proposed official list should explicitly indicate the states that do not maintain registries: in the place where that agency's contact information would be listed should instead be a note saying that requests to that state are not required.

It is our understanding that making the out-of-state child abuse and neglect registry request process more efficient would also meaningfully help ACF's Office of Refugee Resettlement's unaccompanied minors program and the Office of Childcare.¹⁸

¹⁷

https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=62

¹⁸

<https://www.acf.hhs.gov/opre/report/states-status-and-identified-barriers-implementation-child-care-and-development-block>

Additional Recommendations

As part of the implementation guidance for this final rule, we would encourage you to remind title IV-E agencies that the only disqualifying crimes under federal law are those outlined in Section 471(a)(2)(A), and that lists of additional disqualifying crimes are discouraged. If a state has additional disqualifying crimes, the agency should have automatic waivers for kin with a clear list of considerations for evaluation, and an appeal process.

Thank you for your consideration, and all of your hard work and efforts to support children, kinship caregivers, and families.

Sincerely,

A Second Chance, Inc.

CWPolicy

Generations United

New America's New Practice Lab's Resource Family Working Group

Think of Us

APPENDIX

The Child Welfare Policy Manual mentions that some territories do not maintain registries, but implies that agencies must submit requests to all territories regardless:

Question 1.¹⁹

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)(2)(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)(2)(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)(2)(C)(ii) of the Act.

Based on current guidance, title IV-E agencies that make requests, as required, from territories (and states), but do not receive a response, are left with ambiguity about how to proceed.

Clarification that *initiating* the request to another agency is sufficient to meet the requirements for FFP in FCMPs would solve this problem. While the Child Welfare Policy Manual addresses the issue of IV-E agencies that do not maintain a registry, it still expects the other party to send a *response*, creating a scenario that never resolves:

Question 16.²⁰

Section 471(a)(2)(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

¹⁹

https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=62

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https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=62

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

...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).