



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
1250 Maryland Avenue, S.W.
Washington, D.C. 20024

FEB 09 2007

Mr. Jerry W. Friedman
Executive Director
American Public Human Services Association
810 First Street, N.W., Suite 500
Washington, D.C. 20002

Dear Mr. ^{Jerry}Friedman:

Thank you for your letter of December 18, 2006 requesting clarification and guidance in interpreting several provisions of The Safe and Timely Placement of Foster Children Act of 2006 (P.L. 109-239). We are enclosing the Children's Bureau's answers to your specific questions and hope that the information is helpful to you as you assist States and other systems affiliated with interstate placements in developing policies and practices to ensure compliance with P.L. 109-239.

Please do not hesitate to contact Kathy McHugh, Director of Policy for the Children's Bureau at (202) 401-5789 if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Orr", with a long horizontal line extending to the right.

Susan Orr, Ph.D.
Associate Commissioner
Children's Bureau

Enclosures

cc:

Joseph Bock, Deputy Associate Commissioner; Children's Bureau; Washington, D.C.
Kathy McHugh, Division of Policy; Children's Bureau; Washington, D.C.

APHSA QUESTIONS AND ANSWERS

Questions submitted by APHSA to the Children's Bureau on December 18, 2006 requesting clarification on issues related to the Safe and Timely Interstate Placement of Foster Children Act of 2006 (P.L. 109-239)

Q1. It remains unclear whether the 30/60/75 day time limit counts will be based on business or calendar days. We recommend clarification be given that the time limit pertains to business days.

A1. The 60/75 day time limits that apply to the requirement at section 471(a)(26)(i) of the Social Security Act (the Act) are based on calendar days. We plan to issue a Program Instruction that will address the out-of-State timely home study incentives.

Q2. It remains unclear when the 30/60/75 day timeframe begins. We recommend clarification be given that the time frame begin once the request is received by the local agency.

A2. Section 471(a)(26)(A)(i) of the Social Security Act (the Act) establishes that the 60/75-day period begins when the State that is to conduct the home study receives the home study request. It is up to each State to determine the entity in the State to receive these requests. We plan to issue a Program Instruction that will address the out-of-State timely home study incentives.

Q3. Will ACF allow for an adjustment to the beginning of the home study timeframe if the home study request is incomplete and additional information needs to be acquired in order to even begin the home study process?

A3. A State may establish its own rules for what constitutes a completed out-of-State home study request pursuant to section 471(a)(26)(A)(i) of the Act.

Q4. It remains unclear what the acceptable date of receipt for a home study request will be. We recommend clarification be given that the receiving State's date of receipt by the local agency.

A4. See Q&A2.

- Q5. Our reading of the law is that the completion of a home study, within any time frame, does not require an immediate placement decision. Given that the law excludes factors such as education and training from the home study time limit requirements, it is in the best interest of the child to complete all necessary components, in addition to the home study, prior to a final placement decision. We recommend clarification be given to that effect.**
- A5. The law at section 471(a)(26) does not obligate the State to make timely child placement decisions or any child placements upon completion of the home study. Child placement decisions including *whether* or *when* to place a child out-of-State are always State agency decisions.
- Q6. Our reading of the law is that home studies completed in the Receiving State by private agencies that have been contracted by the Sending State are allowable. We recommend clarification be given to that effect.**
- A6. Your understanding is incorrect. Under 471(a)(26)(A), the law requires that a State receiving a request to complete an out-of-State home study must complete the home study themselves or contract it to a private agency. See the use of "shall" in 471(a)(26)(A)(i) of the Act: "within 60 days after the State receives from another State a request to conduct a study of the home environment.... the State shall, directly or by contract – (1) conduct and complete the study". However, if a State chooses to contract with a private agency to conduct a home study in another State, rather than making such request of the other State, it is not prohibited by the statute under title IV-E.
- Q7. Does ACF plan to apply penalties for home studies completed after 60 and (or) 75 days (if applicable)? If so, what are the penalties?**
- A7. Section 471(a)(26) of the Act is a title IV-E State plan requirement; therefore, ACF has the authority to apply the partial review process described in 45 CFR 1355.32(d), if warranted, to determine the State's compliance. A partial review could lead to a program improvement plan, and/or a penalty, depending on the individual State circumstances.
- Q8. Will ACF allow additional reasonable exceptions to the home study time restrictions (i.e., if a foster or adoptive resource is unable to return the necessary information to complete home study in a timely manner)?**
- A8. No, ACF does not have the authority to permit exceptions beyond those established in the statute. Section 471(a)(26)(A)(ii) of the Act permits an additional 15-day extension (from 60 to 75 days) if the State is unable to comply with the time limits as a result of circumstances beyond the control of the State. The extension is only available for out-of-State home studies begun on or before September 30, 2008.

Q9. Does ACF interpret P.L. 109-239 as applying to interstate home studies that are completed for placements with parents?

A9. No. We do not interpret the provisions of P.L. 109-239 to include placements with parents.

Q10. Are incentive payments available for home studies completed for non-IV-E eligible children?

A10. Yes. The definition of an interstate home study applies to the incentive payments in section 473B(g)(2) and includes home studies for all children in foster care under the responsibility of the State.

Q11. Are all types of home studies (parent, relative, foster and adoption) eligible for incentive payments?

A11. No. Consistent with the definition of interstate home study in section 473B(g)(2) of the Act, only home studies that facilitate an adoptive or foster placement of a child in foster care under the responsibility of the State are eligible for incentive payments. See also Q&As 9 and 10.

Q12. Will incentive payments apply to home studies which result in a placement denial?

A12. The law does not tie the incentive payment to an approval or denial of the placement but to a timely interstate home study. As outlined in 473B(g)(3), a State may be eligible for an incentive payment if the home study is completed within 30 days after receipt of the request, and a report (with the exception of the education and training of the prospective foster or adoptive parents) is provided to the State that requested the study.

Q13. How does ACF plan to monitor the requirements in PL 109-239 (Section 4(a)(2)) on usage of the extended 75-day period? How will States be required to maintain and report this information?

A13. States are required by section 471(a)(26)(A)(ii) to document the circumstances that merit the extended 75-day period for completing an out of state home study, and must certify that completing the home study is in the child's best interests. It is up to the individual State to establish procedures for documenting that a 75-day extension is warranted. As section 471(a)(26) of the Act is a title IV-E State plan requirement, ACF has the authority to apply the partial review process described in 45 CFR 1355.32(d), if warranted, to determine the State's compliance.

Q14. In section 473B(c)(2) marked “Verification of Data”, if the data and reports provided to HHS by the Sending and Receiving States do not match, will the Receiving State be penalized, or will the Receiving State’s data be accepted as accurate?

A14. We plan to issue a Program Instruction that will address the out-of-State timely home study incentives.

Q15 If multiple home study requests are received for one child, is each home study completed within a 30-day timeframe eligible for the \$1500 incentive payment?

A15. We plan to issue a Program Instruction that will address the out-of-State timely home study incentives.

Q16. How does ACF define the term “certifies” as referenced in Section 4(a)(1)(26)(A)(ii) of PL 109-239? (e.g., “...if the state documents the circumstances involved and certifies that completing the home study is in the best interest of the child...”).

A16. ACF does not intend to define the term “certify”. States are required by section 471(a)(26)(A)(ii) to document the circumstances that merit the extended 75-day period for completing an out-of-State home study and must certify that completing the home study is in the child’s best interests. States may determine the process they will use to “certify” that completing the out-of-State home study is in the best interest of the child.