

ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

1. Log No: ACYF-CB-PI-10-10

2. Issuance Date: June 7, 2010

3. Originating Office: Children's Bureau

4. Key Words: The Patient Protection and Affordable Care Act (P.L. 111-148); Title IV-B, subpart 1 of the Social Security Act; Title IV-E of the Social Security Act.

PROGRAM INSTRUCTION

TO: State Agencies, Territories, and Insular Areas Administering or Supervising the Administration of Title IV-B, subpart 1 of the Social Security Act (the Act) and/or Title IV-E of the Act; State Independent Living and Education and Training Voucher Coordinators.

Indian Tribes, Indian Tribal Organizations or Indian Tribal Consortia Administering Title IV-B, subpart 1 of the Act and/or Title IV-E of the Act; Tribal Independent Living and Education and Training Voucher Coordinators.

SUBJECT: NEW LEGISLATION – Public Law (P.L.) 111-148, the Patient Protection and Affordable Care Act.

LEGAL AND RELATED REFERENCES: P.L. 111-148; The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351); Title IV-B, subpart 1, section 422; and Title IV-E, sections 475 and 477 of the Act.

PURPOSE: This Program Instruction (PI) provides guidance to States and Territories (hereafter "States"), Indian Tribes, Indian Tribal Organizations or Indian Tribal Consortia (hereafter "Tribes") on actions they are required to take to be in compliance with the requirements of P.L. 111-148.

INFORMATION: The President signed the Patient Protection and Affordable Care Act (P.L. 111-148) on March 23, 2010. The law amended three sections of titles IV-B and IV-E of the Act to ensure that children receiving independent living services and/or education and training vouchers and those who are aging out of foster care have information and education about the importance of having a health care power of attorney or health care proxy and to provide the youth with the option to execute such a document.

1. Transition Plan- Title IV-E

Section Amended: 475(5)(H) of the Act

Description: The Fostering Connections to Success and Increasing Adoptions Act of 2008 amended the case review system definition at section 475(5)(H) of the Act to create a requirement that prior to the youth's emancipation from foster care, the caseworker must develop a personalized transition plan as directed by the youth. P.L. 111-148 further amended this section of the law to require that the transition plan, that is conducted during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the title IV-E agency may elect in accordance with section 475(8)(B)(iii) of the Act, include "information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law."

Effective Date: October 1, 2010

Action Required: By no later than December 31, 2010, States and any Tribe that has submitted a title IV-E plan or has been approved to operate a title IV-E program directly must submit to the Children's Bureau (CB) a title IV-E plan amendment that reflects implementation of, and compliance with, this new title IV-E statutory requirement. This new requirement will be incorporated into a title IV-E plan preprint that will soon be issued through a separate PI.

2. Health Care Oversight and Coordination Plan - Title IV-B, subpart 1

Section Amended: 422(b)(15)(A) of the Act

Description: The Fostering Connections to Success and Increasing Adoptions Act of 2008 required States and Tribes receiving title IV-B, subpart 1, to develop a Health Care Oversight and Coordination Plan. P.L. 111-148 amended section 422(b)(15)(A) of the Act to require that the plan developed include "steps to ensure that the components of the transition plan development process required under section 475(5)(H) that relate to the health care needs of children aging out of foster care, including the new requirement to include options for health insurance, information about a health care power of attorney, health care proxy, or other similar document recognized under State law, and to provide the child with the option to execute such a document, are met."

Effective Date: October 1, 2010

Action Required: By no later than September 30, 2010, States and Tribes receiving funding under title IV-B, subpart 1 must submit to the appropriate CB Regional Office (see Attachment A) an updated Health Care Oversight and Coordination Plan that meets the requirements of P.L. 111-148. Note that as part of the Annual Progress and Services Report (APSR) due no later than June 30, 2010, States and Tribes are required to provide updated information relating to the Health Care Oversight and Coordination Plan or to submit the plan if it was not previously submitted, unless a delayed effective date applies. Therefore, States and Tribes may wish to address the new requirement as part of the June 30, 2010 submission of the APSR. (For more information on the APSR submission requirements, please see ACYF-CB-PI-10-08 (for Tribes) and ACYF-CB-PI-10-09 (for States).)

Please Note: The requirement to develop a Health Care Oversight and Coordination Plan was effective on October 7, 2008 under the Fostering Connections to Success and Increasing Adoption Act of 2008, with limited delays permitted for States certifying that State legislation is necessary to comply with the plan requirement. States with delayed implementation of the Health Care Oversight and Coordination Plan do not need to submit a new certification stating that State legislation is necessary to comply, but must address the new requirement when submitting the plan in accordance with the delayed effective date. The new provision does not extend the requested time to implement the Health Care Oversight and Coordination Plan.

3. John H. Chafee Foster Care Independence Program

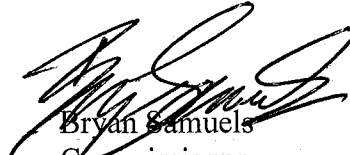
Section Amended: 477(b)(3) of the Act

Description: P.L. 111-148 amended section 477(b)(3) of the Act to require “a certification by the chief executive officer of the State that the State will ensure that an adolescent participating in the program under this section are provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the adolescent if the adolescent becomes unable to participate in such decisions and the adolescent does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the adolescent wants to do so.”

Effective Date: October 1, 2010

Action Required: By no later than September 30, 2010, States and Tribes receiving direct funding under the Chafee Foster Care Independence and/or Education and Training Voucher Program must submit to the appropriate CB Regional Office the new certification signed by the Chief Executive Officer of the State or Leader of the Tribe. A copy of the new certification is provided at Attachment B. States and Tribes are invited to submit the certification with their APSR due to Regional Offices no later than June 30, 2010.

INQUIRIES: CB Regional Program Managers



Bryan Samuels
Commissioner

ATTACHMENTS: Attachment A: Children's Bureau Regional Program Managers and Addresses
Attachment B: New Certification for the Chafee Foster Care Independence Program

ATTACHMENT A – Children Bureau Regional Program Managers and Addresses

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Region IX - San Francisco

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Ph: (415) 437-8462 or (415) 437-8626

States and Territories: Arizona, California, Hawaii, Nevada, Outer Pacific—American Samoa

Commonwealth of the Northern Marianas, Federated States of Micronesia (Chuuk, Pohnpei,

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Region X - Seattle

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States: Alaska, Idaho, Oregon, Washington

Title IV-E, Section 477 New Certification for the Chafee Foster Care Independence Program

As Chief Executive Officer/Tribal Leader of the State/Tribe of _____, I certify that the State has in effect and is operating a Statewide program, or, I certify for the Tribe that it has in effect and is operating a program based on its service area or population to be served pursuant to section 477(b) or (j)(2) of the Social Security Act relating to Foster Care Independent Living and that the following provision to effectively implement the Chafee Foster Care Independence and/or Education and Training Voucher Program is in place:

Adolescents participating in the program under this section are provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the adolescent if the adolescent becomes unable to participate in such decisions and the adolescent does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the adolescent wants to do so [Section 477(b)(3)(K)].

Signature of Chief Executive Officer or Tribal Leader:

Date:
