

# Did You Know?

## Adoption Assistance and AT

Children in foster care are a particularly vulnerable population. United Cerebral Palsy has estimated that at least one-third of the children and youth in the foster care system in America have disabilities. See [www.ucp.org/public-policy/legislative-agenda/programmatic-agenda/priority-agenda/foster-care-and-adoption](http://www.ucp.org/public-policy/legislative-agenda/programmatic-agenda/priority-agenda/foster-care-and-adoption).

In 1980, Congress amended the Social Security Act by adding the Adoption Assistance and Child Welfare Act, Title IV-E, 42 USC 671 *et seq.*, thereby establishing federal contribution toward foster care payments and adoption subsidies. The purpose of the amendment was to provide financial incentives to the states to actively and systemically monitor children in the foster care system. As with other federal/state ventures such as Medicaid, states must comply with federal requirements in order to receive federal reimbursement.

Each state receiving federal funds must enter into adoption assistance agreements with parents "who adopt a child with special needs." 42 USC 673(a)(1)(A), 675(3). A child is held to meet the criteria as a child with special needs if the child meets all the eligibility requirements for SSI and has been determined by the state to be a child with special needs. 42 USC 673(a)(2)(A)(ii). A child will not be considered a special needs child unless:

- the state has determined that the child cannot or should not return to the home of his or her natural parents;
- the state has determined that because of the child's disability (or other special factors, such as ethnic background) it is reasonable to conclude that the child cannot be adopted without providing adoption assistance; and
- a reasonable but unsuccessful effort has been made to place the child without providing adoption assistance or Medicaid. 42 USC 673(c)(2).

For such children, state adoption agencies enter into adoption assistance agreements with the adoptive parents that set forth the nature and amount of any payments, services, and assistance to be provided under the agreement. 42 USC 673(a)(1)(A), 675(3). While states have leeway to make adoption assistance payments based on individual circumstances, adoption assistance payments cannot be higher than foster care payments would have been if the child had remained in or entered a foster home. 42 USC 673(a)(3). In the case of adopted children with disabilities, states may continue the adoption assistance payments until the child is 21 if the state determines that the child has a mental or physical handicap which warrants continuation of assistance. 42 USC 673(a)(4)(A)(i)(II).

In order for the state to be eligible for federal payments, the state plan must provide health insurance coverage (including Medicaid) for any child:

- who has been determined to be a child with special needs for whom there is in effect an adoption assistance agreement, and
- who the state has determined cannot be placed without medical assistance because the child has special needs for medical, mental health, or rehabilitative care. 42 USC 671(a)(21).

States may provide Medicaid coverage for children who are receiving benefits from state or local (non-federal) adoption assistance programs. 42 USC 1396a(a)(10)(A)(ii), 1396d(a)(l). Medicaid is one of the most important funding sources for assistive technology (AT).

In addition to adoption assistance payments and Medicaid, an adoption assistance agreement may include special services to adoptive parents. 42 USC 675(3)(A). Special services will vary from state to state. The federal law does not provide any federal funds for these additional services, but states may make additional benefits available with state or local funds. These special services may be an additional funding source for AT not covered under the Medicaid program.

In Minnesota, for example, adopted children are entitled to a range of items that would be categorized as AT, including specialized communications equipment not covered by educational, vocational or other rehabilitative resources; home modifications including ramps, accessible showers, elevated bathtubs and toilets, blinking lights and tactile alarms as alternate warning systems, lowered kitchen work surfaces, and air conditioning; and disability-related modifications to a vehicle. See Minnesota Rules 9560.0083, subpart 7.

Nebraska has a Special Service Subsidy, allocated on a one-time basis. Services or items available through this subsidy include costs of integrating the child into the adoptive family, such as specially designed furniture required because of the child's disability, or home modifications to accommodate the child's special needs. These special services are covered only if no other resources or programs are available to provide them. 479 Neb. Admin. Code 8-001.02C2(3).

Maine will provide a one-time, non-recurring payment to meet the needs of a special needs child. Maine's regulations list "special orthopedic devices for the child" as an example of a non-recurring item available under this type of adoption assistance. Maine ADC 10-148 Ch. 13.

Importantly, federal law requires that states provide for "granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits [i.e., adoption assistance]...is not acted upon with reasonable promptness." 42 USC 671(a)(12).

To determine how the adoption subsidy program operates in your state and the special services available to adopted children, you can use the links available on the North American Council on Adoptable Children website, [www.nacac.org/adoptionssubsidy/stateprofiles.html](http://www.nacac.org/adoptionssubsidy/stateprofiles.html).

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