

## **Attachment C: Limitations on Title IV-E foster care payments for placements that are not foster family homes**

### **Restrictions on Federal Financial Participation (FFP) for Children Placed in a Child Care Institution (CCI):**

- Title IV-E agencies may claim title IV-E for foster care maintenance payments (FCMP) paid on behalf of an eligible child placed in any CCI for up to two weeks. Title IV-E agencies may claim administrative costs for the duration of the child’s placement in a CCI regardless of whether the CCI is a specified setting as described below (section 472(k) of the Social Security Act (the Act)).
- After two weeks, title IV-E FCMPs for a child placed in a CCI are only available if that CCI is one of the following specified settings:
  - “qualified residential treatment program” (QRTP), as defined in section 472(k)(4) of the Act and subject to additional requirements in section 475A(c) as described below;
  - a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
  - in the case of a youth who has attained 18 years of age, a supervised setting in which the youth is living independently;
  - a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims; or
  - a licensed residential family-based treatment facility for substance abuse (subject to additional requirements per section 472(j) of the Act).
- Effective 10/1/19. A title IV-E agency may request a delayed effective date not to exceed two years, and if so, the effective date for claiming for title IV-E prevention services under section 474(a)(6) of the Act is also delayed for the same period (section 50746(b) of P.L. 115-123).

### **Qualified Residential Treatment Program (QRTP) Program Requirements:** A QRTP must be a program that:

- has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the required 30 day assessment (described below) of the appropriateness of the QRTP placement;
- to extent appropriate, and in accordance with the child’s best interests, facilitates participation of family members in the child’s treatment program;
- facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
- documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- provides discharge planning and family-based aftercare support for at least 6 months post-discharge;
- is licensed in accordance with the title IV-E requirements (section 471(a)(10) of the Act) and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation

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(COA), or any other independent, not-for-profit accrediting organization approved by HHS; and

- has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state/tribal law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week. A rule of construction in section 472(k)(6) of the Act indicates that this requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral health staff solely through means of a direct employer to employee relationship (sections 472(k)(4) of the Act).

### ***QRTP Placement Requirement – 30-day Assessment of the Appropriateness of a QRTP***

#### **Placement:**

- A “qualified individual” must assess a child to determine the appropriateness of a placement in a QRTP for purposes of approving the case plan and the case system review procedure for the child (see described below) (section 475A(c) of the Act).
- If the assessment is not completed within 30 days after the placement is made, the title IV-E agency cannot claim title IV-E for a FCMP for the duration of the placement (section 472(k)(3)(A) of the Act).
- A “qualified individual” is defined as a trained professional or licensed clinician who is not an employee of the agency, and who is not connected to, or affiliated with, any placement setting in which children are placed by the agency. HHS may waive the “qualified individual” requirements if the title IV-E agency certifies that the trained professionals or licensed clinicians will maintain objectivity with respect to determining the most effective and appropriate placement for a child. The “qualified individual” must:
  - assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;
  - determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which allowable CCI setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
  - develop a list of child-specific short- and long-term mental and behavioral health goals; and
  - work in conjunction with the child’s family and permanency team (further described below) while conducting and making the required 30-day assessment.
- If the “qualified individual” determines the child should not be placed in a foster family home, he/she must specify in writing:
  - the reasons why the child’s needs can’t be met by the family or in a foster family home (a shortage of foster family homes is not an acceptable reason for determining the child’s needs cannot be met in a foster family home); and
  - why the recommended placement in a QRTP is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child (section 475A(c)(1) of the Act).

***QRTP Placement Requirement – Family and Permanency Team Requirements:*** The title IV-E agency must assemble a family and permanency team for the child placed in the QRTP in accordance with specified requirements.

- The team must consist of all appropriate biological family members, relative, and fictive kin of the child, as well as professionals (as appropriate) who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy.
- If the child is age 14 or older, the team must also include the members of the permanency planning team for the child that are selected by the child in accordance with the title IV-E case planning requirements (section 475A(c)(1)(B)(i) and (ii) of the Act).

***QRTP Placement Requirement – Case Plan Requirements:*** For a child placed in a QRTP, the title IV-E agency must document the following in the child’s case plan:

- the reasonable and good faith effort of the agency to identify and include all the individuals required to be on the child’s family and permanency team;
- all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;
- evidence that meetings of the family and permanency team, including meetings relating to the required 30-day assessment of the appropriateness of the QRTP placement, are held at a time and place convenient for family;
- if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;
- evidence that the required 30-day assessment to determine the appropriateness of the QRTP is determined in conjunction with the family and permanency team;
- the placement preferences of the family and permanency team relative to the required 30-day assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest;
- if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the required 30-day assessment of the appropriateness of the QRTP, the reasons why the preferences of the team and of the child were not recommended; and
- the written recommendation by the qualified individual regarding the appropriateness of the QRTP placement and the court approval or disapproval of the QRTP placement (section 475A(c)(1)(B)(iii) and (C), and 475A(c)(3) of the Act).

***QRTP Placement Requirement – 60-day Court Approval:*** Within 60 days of the start of each placement in a QRTP, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, must:

- consider the required 30-day assessment of the appropriateness of the QRTP, and documentation made by the qualified individual conducting the assessment;
- determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether

that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

- approve or disapprove the placement. Such approval or disapproval must be documented in the case plan (section 475A(c)(2) of the Act).

***QRTP Placement Requirement – Ongoing Review and Permanency Hearing Requirements:***

As long as a child remains placed in a QRTP, the title IV-E agency shall submit evidence at each status review and each permanency hearing held for the child:

- demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
- documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
- documenting the efforts made by the agency to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 475A(c)(4) of the Act).

**Additional reporting requirements for extended QRTP placements:** If a title IV-E agency places a child in a QRTP for more than 12 consecutive months, or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months, the title IV-E agency must submit to HHS:

- the most recent versions of the evidence and documentation submitted for the most recent status review or permanency hearing; and
- the signed approval of the head of the title IV-E agency for the continued placement of the child in that setting (section 475A(c)(5) of the Act).

**Funding during transition out of QRTP:**

- The title IV-E agency may claim title IV-E FCMPs during the period necessary for a child to transition out of a QRTP for up to 30 days from the date a determination is made that the placement is no longer the recommended or approved placement for the child when:
  - the required 30 day assessment determines that the QRTP placement is not appropriate;
  - a court disapproves the QRTP; or
  - a child is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 472(k)(3)(B) of the Act).