



SPECIAL TRANSMITTAL

SUBJECT: Initial and Ongoing Approval of Foster Family Homes
During the COVID-19 Pandemic

TO: Chief Juvenile Probation Officers
County Children and Youth Social Service Agencies
Private Children and Youth Social Service Agencies
Pennsylvania Children and Youth Administrators Association

FROM: Jonathan Rubin 
Deputy Secretary for Children, Youth & Families

DATE: **DECEMBER 9, 2020**

PURPOSE:

The purpose of this Special Transmittal is to consolidate and release guidance to public and private children and youth social service agencies regarding the initial and ongoing approval of foster family homes during the coronavirus disease 2019 (COVID-19) pandemic.

This transmittal does not replace existing bulletins, policy clarifications or other guidance related to the approval or reevaluation of foster family homes.

BACKGROUND:

The Department of Human Services' (DHS) regulations, 55 Pa. Code Chapter 3700, outline the various requirements that a resource family must meet to become an approved foster family home, specifically §§ 3700.62-3700.67 (relating to foster parent requirements; foster child discipline, punishment and control policy, assessment of the foster parent capability, foster parent training, foster family residence requirements and safety requirements). Under § 3700.62 a foster parent must be 21 years of age or older and pass an initial medical appraisal by a licensed physician stating that the foster parent is physically able to care for children and is free from communicable disease. Section 3700.62(c) states that the Foster Family Care Agency (FFCA) shall require the foster parent to comply with the Pennsylvania Child Protective Services Law (CPSL) and 55 Pa. Code Chapter 3490. As required by § 3700.67(h), drinking water from an

individual water source shall be potable as determined by an annual microbiological test conducted by a laboratory certified by the Department of Environmental Resources. Additionally, the FFCA must complete an annual reevaluation on all foster parents as outlined under § 3700.69 to ensure continued compliance with all foster family requirements (§§ 3700.62-3700.67).

The CPSL requires employees having contact with children and foster and adoptive parents to submit three types of clearances prior to working with or having children in their care. Under § 6344 (b), individuals who come in to contact with children must complete a Pennsylvania State Police criminal record check, a child abuse history clearance from DHS, and a Federal Bureau of Investigation (FBI) criminal history background check. These requirements also apply to permanent legal custodians and employees of congregate care facilities.

DISCUSSION:

On March 6, 2020, Governor Wolf issued a Proclamation of Disaster Emergency in response to the COVID-19 pandemic enabling agencies to act promptly to address the issues from the pandemic.

Since the initial issuance of the declaration, a myriad of legislative changes, regulatory waivers/suspensions/exemptions and administrative flexibilities have been implemented by the federal government and the Commonwealth. This Special Transmittal summarizes the key changes that impact the initial and ongoing approval of foster family homes during the Governor's Disaster Proclamation. Key changes include:

- On April 15, 2020, the federal Department of Health and Human Services (DHHS) offered flexibility to states and tribes under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.) (Stafford Act) to permit continued claiming of Federal Financial Participation (FFP) under the Title IV-E Adoption Assistance, Guardianship Assistance and Foster Care Placement Maintenance programs. This flexibility allows states to claim FFP when an eligible child/youth is placed in a foster family home, adoptive home, permanent legal custodianship home, or child care institution where the foster/adoptive parents, permanent legal custodians, or adults working in a child care institution did not obtain an FBI criminal history background check, but did conduct all available name-based criminal background checks for prospective foster parents, adoptive parents, permanent legal custodians, and adults working in child care institutions AND completes the FBI criminal history background check as soon as it is safe to do so. When this flexibility was initially offered, Pennsylvania statute was more restrictive and prevented county children and youth agencies (CCYAs) from taking advantage of the flexibility to continue claiming FFP.
- Governor Wolf signed Act 18 of 2020 on May 8, 2020, to grant individuals who must get their FBI criminal history background checks prior to

beginning/continuing employment, as found in Section 6344 of the CPSL, additional time to meet this requirement. Renewal applicants MUST obtain their FBI criminal history background check as soon as possible, but no later than December 31, 2020. New applicants MUST obtain their FBI criminal history background check as soon as possible but no later than December 31, 2020, or 60 days after the expiration of the declaration of disaster emergency, whichever is sooner. This includes but is not limited to:

- An employee of child care services;
- A foster parent;
- A prospective adoptive parent; and
- A permanent legal custodianship (PLC) candidate.

The reason the applicant was unable to obtain the FBI criminal history background check must be a COVID-19 pandemic-related reason; e.g., there were no open IndentoGo locations within 25 miles of the applicant's location; and/or an open IndentoGo location within 25 miles of the applicant's location did not have any fingerprinting appointments available before an employee was scheduled to begin working. In addition, the applicant must have:

- Submitted the results of the Pennsylvania State Police criminal record check and the Pennsylvania child abuse history clearance which showed no disqualifying offenses to the employer/FFCA prior to the applicant's first day of work;
- Sworn and affirmed in writing that they are not disqualified from employment based on a conviction of any offense found in Section 6344(c) of the CPSL; and
- Submitted a certification that is equivalent to the Pennsylvania State Police criminal record check from the last state in which the individual was a resident if they have not been a resident of the Commonwealth during the entirety of the previous 10-year period.

Act 18 of 2020 requires employers/FFCAs to maintain copies of the clearances and criminal record checks completed; the applicant's attestation that they have not been convicted of any disqualifying offenses; documentation of the date and COVID-19 related reason an employee was hired/maintained employment without obtaining the FBI criminal history background check; and the date the employee was able to obtain the FBI criminal history background check and a copy of the check. Pennsylvania child abuse history clearances obtained for volunteer purposes may not be used for employment.

- On May 8, 2020, DHHS issued ACYF-CB-PI-20-10 to provide instructions and procedures to states and tribes on how to request additional flexibilities under the Stafford Act to meet specific Title IV-E requirements as a result of the COVID-19 pandemic. Pennsylvania requested flexibility in meeting:
 - § 472(c)(1)(A)(i) of the Social Security Act relating to full licensure of foster family homes; and
 - § 475(8)(B)(iv) of the Social Security Act relating to the required education and employment conditions for youth over age 18 to receive Title IV-E assistance.

DHHS requires states and tribes to complete as much of the licensure requirements as possible, complete any remaining licensing requirements as soon as it is safe to do so, and ensure that the foster family home is safe for children. These efforts must be documented.

- On May 26, 2020, DHS' Office of Children, Youth and Families (OCYF) issued "[Guidance Regarding Suspension of Regulatory Requirements for OCYF Licensees During the COVID-19 Pandemic](#)". DHS suspended certain foster family home regulatory requirements under 55 Pa. Code Chapter 3700 to provide flexibility in allowing foster parents to demonstrate that they meet certain minimum regulatory requirements for initial and ongoing approval as a foster family home. Specifically:
 - Efforts should still be made to ensure foster parents meet regulatory requirements pertaining to medical appraisals. However, when these appraisals cannot be completed due to COVID-19 and telehealth is unavailable, a grace period of up to 90 days from the time the emergency proclamation is lifted may be granted for meeting this requirement if the FFCA determines there are no observable indications that the foster parents are physically unable to care for children. All efforts to obtain the medical appraisals, including use of telehealth, must be documented by the approving agency.
 - When there are no prior concerns with the water in the foster family home being potable, required annual microbiological tests do not need to be completed when it is documented in the foster family record that a laboratory certified by the Department of Environmental Resources is unavailable due to COVID-19.
 - Alternative methods for completing required annual inspections of foster family homes should be explored to ensure adherence to social distancing guidelines set forth by the Centers for Disease Control and Prevention (CDC) and the Department of Health (DOH). FFCAs are permitted to utilize telecommunications to conduct video tours of homes to ensure the entire foster family home is inspected and deemed to be safe. Rationale for the utilization of alternative methods must be documented in the foster family home record.

As a result of the above legislative changes, administrative flexibilities and regulatory waivers, suspensions, and exemptions, private and public children and youth social service agencies may issue temporary initial or ongoing approvals of foster family homes during the Governor's Disaster Proclamation when any of the below circumstances exist and all other criteria outlined in 55 Pa. Code 3700.62 through 3700.67 are met:

- The foster parents have not been able to obtain an FBI criminal history background check as part of their initial approval or reevaluation requirements but are compliant with Act 18 of 2020;
- The foster parents have not had a medical appraisal completed by a licensed physician to verify they are/continue to be physically able to care for children and are free from communicable disease when it can be documented that access to routine medical appointments are unavailable and efforts to explore use of telehealth are documented. The medical appraisal must be obtained within 90 days of the Governor's Disaster Proclamation being lifted;
- The foster parents' water has not been deemed potable through an annual microbiological test conducted by a laboratory certified by the Department of Environmental Resources AND there are no past concerns with the water being potable. The water test should be completed as soon as possible but no later than the first reevaluation following the Governor's Disaster Proclamation being lifted; or
- The annual reevaluation is completed using alternate methods of the in-person safety home inspection to ensure the entire home is inspected and deemed to be safe. The in-person safety home inspection should be completed as soon as possible but no later than the first reevaluation following the Governor's Disaster Proclamation being lifted. The initial in-person safety home inspection **must** be completed in-person.

Until Act 18 of 2020 took effect, private or public children and youth social service agencies were not able to issue a temporary initial or ongoing approval when foster parents had not been able to obtain an FBI criminal history background check.

Private or public county children and youth social service agencies must clearly document in the foster family record when any of the above circumstances exist and the efforts made to mitigate safety concerns. For these circumstances, agencies may utilize the attached Awaiting Written Approval Documentation (AWAD) Certificate of Approval to document temporary initial and ongoing approvals. The AWAD Certificate of Approval must be supported with documentation in the case file that identifies the reason the requirement could not be met, and the efforts made by the agency throughout the Governor's Disaster Proclamation to meet the requirements. Use of the AWAD assists outside reviewers and auditors to understand the actions taken by the children and youth social service agency.

The CCYA can utilize Act 148 funds when the above requirements are met, and a temporary initial or ongoing approval is issued. The CCYA can also claim FFP for Title IV-E eligible children beginning the first day of the month when a temporary initial or ongoing approval is issued.

If the FBI criminal history background check is not obtained by December 31, 2020 or the medical appraisal is not obtained within 90 days of the Governor's Disaster Proclamation being lifted:

- The temporary initial approval for a foster family home must be revoked as of the extended date the background check or medical appraisal was due. If there is a determination by the court that the child/youth must remain in the home, the agency may choose to continue to work with the family towards becoming a fully approved foster family home. If a revocation of the temporary initial approval occurs, Act 148 and Title IV-E claiming must cease until the first day of the month a Certificate of Approval is issued.
- The temporary ongoing approval must be rescinded, and a provisional approval must be issued as of the extended date the background check or medical appraisal was due until the requirements in 55 Pa. Code § 3700.62 through 3700.67 are met. Title IV-E claiming must cease as of the date the provisional approval is issued until the day a Certificate of Approval is issued. There is no loss of Act 148 funds during the period the foster family home is on provisional status.

Public and private children and youth social services agencies must register all approved or disapproved foster/adoptive/kinship families with the Resource Family Registry (RFR).

Attachment



___ Initial
___ Re-evaluation

COMMONWEALTH OF PENNSYLVANIA
CERTIFICATE OF APPROVAL
FOR APPROVED FOSTER HOMES AWAITING WRITTEN APPROVAL DOCUMENTATION

This certificate is Granted to: _____
Name of Foster Parent(s)

Address: _____

To Operate a Foster Family Home for: _____
Name of Agency

Foster Family Home Approved for: _____
Type of Foster Care

Foster Family Home Capacity: _____

**“An inspection was completed and the foster home meets
all approval requirements and is awaiting written documentation.”**

*This certificate of approval is granted in accordance with
Title 55 Pa. Code Chapter 3700 Foster Family Care Agency*

Issuance Date: _____

Reason Temporary Approval Issued: _____

This Approval Shall Remain in Effect: From: _____ To: _____

*This Certificate of Approval may be revoked at any time
for non-compliance with applicable laws and regulations.*

Agency Representative

Date of Issuance