

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 10:</b> Adoption/Permanency	<b>Effective Date:</b> January 1, 2020
	<b>Section 20:</b> Administrative Review for Adoption Assistance	<b>Version:</b> 3

<b>STATEMENTS OF PURPOSE</b>
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The Indiana Department of Child Services (DCS) will process a request for administrative review when a prospective adoptive parent disagrees with a decision made by DCS under policy sections [10.15 Eligibility Requirements for Adoption Assistance](#), [14.08 Negotiations for Adoption Assistance](#), and [14.10 Continuations, Termination and Suspensions of Adoption Assistance Periodic Payments](#). DCS will also process a request for administrative review of a decision concerning the amount payable for Non-Recurring Adoption Expenses (NRAE).

An adoptive parent must submit a written [Request for Administrative Review \(SF 54348\)](#) to DCS within 15 calendar days of service of notice by mail or hand delivery of any of the following decisions:

1. [Final Adoption Program Eligibility Determination](#);
2. The DCS periodic payment final offer letter;
3. Determination of the amount allowed and payable for NRAE;
4. Determination of a request for modification of the payment provisions of an Adoption Assistance Agreement if the DCS local office and adoptive parent have not reached an agreement of the modification request;
5. Denial of a request for continuation of an Adoption Assistance Agreement beyond the age of 18; or
6. Termination or suspension of an Adoption Assistance Agreement for any reason specified in policy [14.10 Continuations, Termination and Suspensions of Adoption Assistance](#) other than the age of the child, death of the child or adoptive parent, or termination of the adoptive parent child relationship.

The [Request for Administrative Review \(SF 54348\)](#) must be submitted to the DCS Hearings and Appeals, in the manner specified on the request form. The DCS Administrative Reviewer will conduct the administrative review based on the reasons stated in the submitted request, the documentation included to support the request, and any documentation submitted by DCS staff. Any person who was involved in making the decision or determination that is the subject of the administrative review request will not participate in the administrative review.

**Review of Eligibility Determinations**

In accordance with policy [10.15 Eligibility Requirements for Adoption Assistance](#), DCS will process a [Request for Administrative Review \(SF 54348\)](#) from a prospective adoptive parent who has an application pending for adoption assistance concerning a determination made by DCS.

To overturn a DCS determination denying eligibility, the DCS Administrative Reviewer must find the determination was contrary to applicable federal or state law, rule, procedure, or policy, as applied to the facts stated in the application or otherwise found by DCS based on the documentation submitted or available in DCS records.

### **Review of Initial Periodic Payment Amount**

In accordance with policy [14.10 Continuations, Termination and Suspensions of Adoption Assistance](#), if a prospective adoptive parent wishes to request an administrative review of the adoption subsidy offered by DCS in its final offer letter, the [Request for Administrative Review \(SF 54348\)](#) must be submitted to DCS Hearings and Appeals. The request must be in the format specified in the [Request for Administrative Review \(SF 54348\)](#). The prospective adoptive parent must state the reason for requesting a review and should include documentation to support the basis for the request. The DCS Administrative Reviewer will conduct the administrative review based on the request submitted by the prospective adoptive parent, the documentation included to support the request, and any documentation submitted by DCS staff.

The prospective adoptive parent may sign an Adoption Assistance Agreement that includes the periodic payment amount included in the DCS final offer letter, submit a request for administrative review of the payment amount under this policy, and proceed in the adoption case to request a final decree of adoption of the child. In that event, DCS will begin payment of the amount as stated in the agreement, effective on the date of entry of the final adoption decree. If the amount of the periodic payment is increased as a result of the administrative review or subsequent administrative hearing. See policy 10.21 Administrative Appeals for Adoption Assistance), the final approved payment amount will be retroactive to the final adoption decree date.

A prospective adoptive parent who does not elect to sign the agreement may utilize the administrative review procedure provided in this policy. That procedure, and any available administrative hearing under policy [14.12 Administrative Appeals for Adoption Assistance](#), should be exhausted before a final decree of adoption of the child is entered. The written Adoption Assistance Agreement or [State Adoption Subsidy \(SAS\) Agreement](#) between DCS and the adoptive parent must be signed by both the parent and DCS on or before the date the court enters the final decree of adoption of the adoptive child. See policy [10.15 Eligibility Requirements for Adoption Assistance](#) for additional information. If the adoption decree is entered before both DCS and the prospective adoptive parent have signed the Adoption Assistance Agreement or SAS agreement, the child **will not be eligible** for any adoption assistance or Medicaid coverage based on the adoption.

To overturn a DCS determination concerning the periodic payment in an administrative review, the DCS Administrative Reviewer must find one (1) or more of the following:

1. DCS did not substantially follow the procedures specified in this policy or any other applicable policy, rule, procedure, or statute relating to the determination of adoption assistance periodic payments;
2. DCS did not consider relevant information or documentation the prospective adoptive parent submitted with the Payment Request Information (PRI) form when conducting the negotiation or submitting its final offer letter based on the factors and information outlined in policy [14.08 Negotiations for Adoption Assistance](#); or
3. The periodic payment DCS agreed to pay as stated in the final offer letter is clearly unreasonable and not supported by substantial and relevant evidence presented by the prospective adoptive parent or otherwise considered by DCS.

### **Review of Requested Modification of Periodic Payment Amount**

In accordance with policy [14.09 Modification of an Adoption Assistance Agreement](#), after an Adoption Assistance Agreement or SAS Agreement has been signed by the adoptive parent

and DCS, and a final decree of adoption has been entered, the adoptive parent may request a modification of the periodic payment amount or term stated in an existing agreement. If the decision by the DCS local office is unsatisfactory to the adoptive parent, a [Request for Administrative Review \(SF 54348\)](#) must be submitted to DCS Hearings and Appeals within 15 days of the date of the decision.

The factors previously identified in the section of this policy titled [Review of Initial Periodic Payment Amount](#) apply to an administrative review concerning a requested modification under this section. In addition, to justify the increase of a periodic payment, the adoptive parent must show a change in the child's needs or family's financial circumstances occurred after the original agreement was signed.

### **Review of Termination or Administrative Suspension**

In accordance with policy [14.10 Continuations, Termination and Suspensions of Adoption Assistance Periodic Payments](#), if the decision of DCS Central Eligibility Unit (CEU) concerning termination or administrative suspension of assistance under this section is unsatisfactory to the adoptive parent and is subject to administrative review, a [Request for Administrative Review \(SF 54348\)](#) must be submitted to DCS Hearings and Appeals. Administrative reviews of DCS decisions to terminate or administratively suspend adoption assistance will be conducted by a DCS Administrative Reviewer.

To overturn a DCS determination concerning the administrative suspension or termination of the agreement, the DCS Administrative Reviewer must find the determination of DCS was based on a material error of fact or was contrary to applicable law or DCS policy.

### **Review of Continuation after the Child Turns 18 Years of Age**

In accordance with policy [14.10 Continuations, Termination and Suspensions of Adoption Assistance Periodic Payments](#), to overturn a DCS determination concerning an [Application for Continuation of Adoption Assistance Agreement Beyond Age Eighteen](#), the DCS Administrative Reviewer must find at least one (1) of the following factors applies:

1. The DCS CEU failed to consider relevant documentation submitted with the application;
2. The DCS CEU failed to adequately or properly evaluate the documentation and information submitted with the application if the application is based on the child's physical, mental, medical, or emotional condition that limits the child's self-supporting capability at the time the child will become 18 years of age; or
3. The DCS decision was contrary to currently applicable law or DCS policy.

### **Administrative Review Decision**

DCS will send notice of the administrative review decision to the person requesting a review along with instructions and any appropriate forms so a [Request for Administrative Hearing \(SF 54349\)](#) may be pursued, if applicable.

If the person requesting a review is dissatisfied with the results of the administrative review, the person may submit a written [Request for Administrative Hearing \(SF 54349\)](#) to DCS Hearings and Appeals. The [Request for Administrative Hearing \(SF 54349\)](#) must be filed with the DCS Hearings and Appeals unit within 30 calendar days of service by mail or hand delivery to the prospective or adoptive parent of the written notice of final administrative review decision. See policy [14.12 Administrative Appeals for Adoption Assistance](#) for additional information.

An administrative review will not be provided concerning:

1. Disapproval of any requested change in the language or format of the agreement form that DCS submitted for completion and signature;

2. Determinations relating to percentage reductions in current SAS payments; or
3. Any other decision or determination of DCS relating to administration of the SAS program under IC 31-19-26.5 and this policy that is not described in this policy.

#### Code References

1. [IC 31-19-26.5 Adoption Subsidies](#)
2. [42 USC 673 Adoption and guardianship assistance program](#)
3. [465 IAC 3 Administrative Reviews and Hearings](#)
4. [465 IAC 4 Indiana Adoption Assistance and Guardianship Assistance Programs](#)

#### **PROCEDURE**

The DCS Administrative Reviewer will:

1. Determine if requests were made in a timely manner. If not, the request will be denied, unless good cause is shown for an untimely submission; and
2. Send a copy of the administrative review decision to the person requesting review and the appropriate DCS representative as applicable.

#### **PRACTICE GUIDANCE**

N/A

#### **FORMS AND TOOLS**

1. [Final Adoption Program Eligibility Determination](#) – Available via CEU
2. [Notice of Termination of Adoption Agreement](#) – Available via CEU
3. [Payment Request Information \(PRI\) form](#) – Available via CEU
4. [Application for Continuation of Adoption Assistance Agreement Beyond Age Eighteen](#) – Available via CEU
5. [Request for Administrative Review \(SF 54348\)](#)
6. [Request for Administrative Hearing \(SF 54349\)](#)

#### **RELATED INFORMATION**

N/A