

10A CAR 70B .0102 - ELIGIBILITY

- (a) The Department of Human Services may determine whether a child is eligible for IV-E foster care assistance payments if the following factors are established:
- (1) The child has been removed for any reason from his own home or from the home of a specified relative or caregiver by a judicial determination and placed in foster care as a result of that determination;
  - (2) The placement of the child in foster care has occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of the child and such placement has not been in excess of 60 consecutive days unless there has been a judicial determination by a court of competent jurisdiction (within the first 30 days of such placement) to the effect that such placement is in the best interest of the child.
  - (3) Responsibility for care and placement of the child is designated to the Department of Human Services by either the court order removing him from his home or by the voluntary placement agreement signed by the parent or guardian;
  - (4) The child lives in:
    - (A) A licensed foster care facility which is licensed by the licensing agency with the authority to license in the jurisdiction in which it is situated;
    - (B) A private child caring institution which is licensed or approved by a Department of Health and Human Services and which is in compliance with Title VI of the Civil Rights Act or is licensed and approved by the Tribe's Department of Human Services and which is in compliance with all Tribal codes and regulations and any applicable federal laws;
      - (i) For purposes of this subchapter, a child care institution means a private or public child care institution which accommodates no more than 25 children, and is licensed by the licensing agency with the authority to license in the jurisdiction in which it is situated, except in the case of a child who has reached 18 years of age, the term includes a supervised setting in which the individual is living independently. A child care institution does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.
    - (C) A private group home which is licensed or approved by a Department of Health and Human Services and which is in compliance with Title VI of the Civil Rights Act or is licensed and approved by the Tribe's Department of Human Services and which is in compliance with all Tribal codes and regulations and any applicable federal laws;
    - (D) A foster care facility which is under the auspices of a licensed or approved private child caring institution, provided such foster care services program has been licensed by a Department of Health and Human Services and is in compliance with Title VI of the Civil Rights Act or is licensed and approved by the Tribe's Department of Human Services and which is in compliance with all Tribal codes and regulations and any applicable federal laws;
    - (E) A foster care facility under the supervision of a private child placing agency (including those providing adoption services) and licensed by a Department of Health and Human Services or is licensed and approved by the Tribe's Department of Human Services and which is in compliance with all Tribal codes and regulations and any applicable federal laws; or
    - (F) A foster care facility located in another jurisdiction, provided such facility is in compliance with Title VI of the Civil Rights Act and is licensed or approved in the other state, and provided such placement has been approved under the appropriate intergovernmental placement procedure;

G. Licensed residential family-based treatment for substance abuse, means a treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; under and organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

- (5) The child is in need of care which is not available in his own home or the home of a relative or caregiver;
- (6) The child is less than 18 years of age and is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and may reasonably be expected to complete the program before reaching age 19; or
- (7) The child is a person who has attained the age of 18 but has not attained 21 years of age who meets one of the following criteria:
  - (A) The child is completing secondary education or a program leading to an equivalent credential; or
  - (B) The child is enrolled in an institution which provides post-secondary or vocational education; or
  - (C) The child is participating in a program or activity designed to promote, or remove barriers to, employment; or
  - (D) The child is employed for at least 80 hours per month; or
  - (E) The child is incapable of doing any of the above described activities due to a medical condition.
- (b) Court action suspending or terminating parental rights shall not render a child ineligible for foster care assistance benefits if that child is otherwise eligible. A child may be eligible for foster care assistance benefits until the final decree of adoption is issued.