DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20201

April 15, 2020

Dear Child Welfare Leaders,

In light of the extraordinary circumstances related to the Coronavirus Disease (COVID-19) pandemic and nationwide public health emergency, we received requests for flexibility in meeting two specific federal requirements that we address in this letter:

- The fingerprint-based criminal record check requirements of §471(a)(20)(A), (C), and (D) of the Social Security Act (the Act).
- The requirement that 50 percent of monthly caseworker visits be in the child's residence pursuant to §424(f)(2)(A) of the Act (for states only).

Background: The President issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak on March 13, 2020. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under §319 of the Public Health Service Act (42 U.S.C. §247d), in response to the COVID-19 pandemic. Additionally, the President has issued major disaster declarations for many jurisdictions due to the COVID-19 pandemic.

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.) (Stafford Act), federal agencies that administer federal assistance programs may modify or waive administrative conditions of federal assistance programs under certain limited circumstances:

- There has been a declaration of a major disaster with respect to the applicable geographic area.
- The applicant state or local authorities have requested the modification or waiver.
- The modifications or waivers are with respect to administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster (42 U.S.C. §5141).

Major disaster declarations are posted on the website for the Federal Emergency Management Agency (FEMA) at https://www.fema.gov/disasters.

As a result of the numerous requests from title IV-E agencies about the challenges in meeting the two federal requirements above, we are notifying states and tribes of the following flexibility:

Fingerprint-Based Criminal Records Checks

The Act mandates that a title IV-E agency only may claim Federal financial participation (FFP) for payments under title IV-E if an eligible child is placed in a foster family home, adoptive

home, legal guardianship home, or child care institution, if the title IV-E agency has completed fingerprint-based checks of national crime information databases (NCID) (as defined in section 534(f)(3)(A) of title 28, United States Code) on foster/adoptive parents, legal guardians, or adults working in a child care institution (§471(a)(20)(A), (C), and (D) of the Act). The Children's Bureau identified this requirement as an administrative condition that it may modify under the Stafford Act authority.

Thus, during the major disaster period, a title IV-E agency that wishes to exercise this flexibility must:

- Conduct all available name-based criminal background checks for prospective foster parents, adoptive parents, legal guardians, and adults working in child care institutions, and
- Complete the fingerprint-based checks of NCID pursuant to §471(a)(20)(A), (C), and (D) of the Act as soon as it can safely do so, in situations where only name-based checks were completed.

Caseworker Visits in the Child's Residence (States Only)

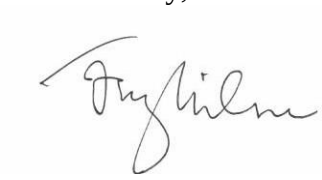
Section 424(f)(2)(A) of the Act requires that each state must ensure that not less than 50 percent of the total number of monthly caseworker visits during a federal fiscal year occur in the residence of the child. The Children's Bureau identified this requirement as an administrative condition that it may modify under the Stafford Act authority.

Thus, during the major disaster period, the title IV-E agency may include the monthly caseworker visits that occur by means of video conferencing as "in the child's residence" for meeting the requirement in §424(f)(2)(A) of the Act.

Send inquiries to the Children's Bureau Regional Program Managers. Contact information can be found here: https://www.acf.hhs.gov/cb/resource/regional-program-managers

Thank you for your continued efforts.

Sincerely,



Jerry Milner
Associate Commissioner
Children's Bureau