

DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES

CHAPTER 52

ADOPTIVE SERVICES

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ADOPTIVE SERVICES

37.52.104

Subchapter 1

Child Adoption Services

37.52.101 PROCEDURES FOR OBTAINING SERVICES (1) Any person eligible to adopt, pursuant to 40-8-106, MCA, may apply to adopt by filling out an application which can be obtained at any child and family services division regional office. (History: Sec. 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 02 and 03 reserved

37.52.104 HOME APPROVAL, ELIGIBILITY REQUIREMENTS

(1) The department will not accept adoptive applicants who have current applications before any other licensed adoption agency.

(2) The department decides whether applicants will be studied and whether children will be placed. The department may limit adoptive intake according to the number and type of children available for adoption.

(3) Adoptive applicants must submit to the department a physical examination report as part of the adoption application.

(4) Adoptive applicants must have sufficient income to provide for an additional child or children.

(5) A social worker completes an adoptive home study and recommends the type of child for whom a family will be considered.

(6) The department notifies the applicant when the home is approved for an adoptive placement.

(7) The adoptive home must be re-evaluated after 1 year if a child has not been placed in the home.

(8) At the time of placement, the adoptive family must sign an adoptive placement agreement. (History: Sec. 52-1-103 and 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1988 MAR p. 979, Eff. 5/27/88; TRANS, from DFS, 1998 MAR p. 659.)

Rules 05 through 09 reserved

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37. 52. 110 ADOPTIVE HOME APPROVAL The department provides the following services:

- (1) counsel the family regarding an appropriate placement for them;
 - (2) help the family to understand the adoptive process;
 - (3) counsel the family regarding possible adjustment problems;
 - (4) counsel the family regarding telling the child about adoption and handling questions which may come up in the future;
 - (5) advise the adoptive family that the department may provide services if problems arise after an adoption is completed;
 - (6) provide information regarding other agencies and resources and make referrals; and
 - (7) help the family to accept the department's decision.
- (History: Sec. 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 11 through 14 reserved

37. 52. 115 ADOPTIVE PLACEMENT ELIGIBILITY REQUIREMENTS

- (1) Parental rights must be terminated and custody with the right to place for adoption must be given to the department by a court of competent jurisdiction.
 - (2) The parent or parents may voluntarily relinquish a child for adoption by an affidavit of waiver and consent to adoption, in triplicate, before a notary public. The form may be obtained at any local county welfare office. This affidavit may not be signed prior to the birth of a child.
 - (3) The legal father of a child must also sign waivers to be relinquished for adoptive placement. If the child is born within 10 months of a divorce, the former husband must sign waivers.
 - (4) If paternity has been admitted or legally established, the unwed father must also sign waivers.
 - (5) The child must be able to accept and adjust to adoptive placement.
 - (6) The child must have a pre-adoptive physical examination.
- (History: Sec. 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 16 through 19 reserved

37.52.120 ADOPTIVE PLACEMENT SERVICES PROVIDED The department will:

- (1) prepare a social study on children considered for adoption;
- (2) counsel children considered for adoption;
- (3) arrange for pre-placement visits with the family selected for placement;
- (4) assist the family in formal adoption proceedings;
- (5) supervise the adoptive placement; and
- (6) counsel the family and child if the adoption is disrupted. (History: Sec. 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 21 through 24 reserved

37.52.125 CHILD PLACEMENT, PROCEDURES FOR OBTAINING SERVICES (1) A social worker may recommend adoptive placement for a child who is eligible for adoption and appears to be placeable by reason of age, adjustment and family situation.

(2) Another licensed agency or a court could recommend adoptive placement of a child. Referral may be in person, in writing or by telephone. (History: Sec. 53-4-111, MCA; IMP, Sec. 53-4-112 and 53-4-115, MCA; NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Subchapter 2

Subsidized Adoption

37.52.201 PURPOSE (1) The purpose of this subchapter is to encourage and promote the adoption of children who are hard-to-place by providing information and assistance in completing the adoption process and financial assistance when necessary to insure the health and welfare of the hard-to-place child. (History: 53-4-304, MCA; IMP, 53-4-302, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 37.52.202 and 37.52.203 reserved

37.52.204 ELIGIBILITY REQUIREMENTS (1) All criteria found in Title 40, chapter 8, part 1, MCA for adoption must be met.

(2) A child is certified as hard-to-place if he meets at least one of the following criteria:

- (a) is handicapped because of physical, mental or emotional defects;
- (b) is three years of age or older; or
- (c) is a sibling.

(3) All other alternatives must have been explored with no resources being available except for children in foster care for whom the foster home is considered the best resource. (History: 53-4-304, MCA; IMP, 53-4-304, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

37.52.205 APPLICATION OF PROSPECTIVE ADOPTIVE FAMILY (1) A family may be considered for subsidized adoption if they meet all the standards for adoption but whose financial resources are temporarily or indefinitely inadequate to assume complete financial care of the child.

(2) A foster family may be appropriate if there is a meaningful relationship between the child and family and if the family has expressed an interest in a permanent relationship with the child but who need a subsidy to adopt the child. It would not be appropriate if the child has a relationship with the biological parents and continual contacts are being made. (History: 53-4-304, MCA; IMP, 53-4-308, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

37.52.206 AMOUNT AND DETERMINATION OF SUBSIDY (1) A department representative will evaluate the family's needs and the aid necessary to help the child and family. It will be based on the family situation, including income and expenses. The current federal income tax statement will be examined. The need for a subsidy must be based on the needs of the family that are attributable to the placement of the child. Subsidy may be made for a limited time or over a long term depending on whether the family's income is limited and the possibilities that it may remain limited. The monthly payment will continue until the child is 18 years of age.

(2) Medical costs do not include those which can be or are covered beyond completion of the adoption. It may continue until such time as the physician discharges a child from care of a medical problem.

(3) Special purpose assistance may be allowed in the event a child requires a special service, but such assistance may not exceed the cost of a similar service provided by the department for children who are legal wards of the department. (History: 53-4-304, MCA; IMP, 53-4-310, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 37.52.207 through 37.52.209 reserved

37.52.210 REVIEW OF SUBSIDY PAYMENT (1) A subsidized adoption agreement will be signed indicating the amount and duration of the subsidy. The subsidy established by this agreement may be modified upon request by the adoptive parents based upon changes in the needs of the child or upon a change in circumstances which affects the adoptive family. A change in the maximum allowable subsidy established by law is also an acceptable reason to seek a subsidy adjustment. (History: 42-10-104, MCA; IMP, 42-10-107, 42-10-108, 42-10-109, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659; AMD, 2009 MAR p. 417, Eff. 4/17/09.)

Rules 37.52.211 through 37.52.213 reserved

37.52.214 POST PLACEMENT (1) Post-placement supervision will continue for one year. The adoptive family must notify the department of any changes in their financial situation, which may affect the subsidy. In addition, the family must submit medical expenses and need for continuation of the subsidy. (History: 53-4-304, MCA; IMP, 53-4-311, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Rules 37.52.215 through 37.52.219 reserved

37.52.220 OTHER AGENCIES (1) Other adoptive agencies may qualify for this program if the agency has permanent custody of a child and has exhausted all possible attempts for permanent adoptions including reference to the department. Application will be made with the field supervisor in the appropriate district. (History: 53-4-304, MCA; IMP, 53-4-304, MCA; NEW, Eff. 8/4/73; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 659.)

Chapters 53 through 65 reserved