

PERMANENCY REQUIREMENTS

Under Chapter 7 (Social Security) of Title 42 of the United States Code, the federal government has made provisions to reimburse Mississippi for monies the State has expended on foster care maintenance payments. Adherence to federal requirements are essential for Mississippi to receive the reimbursement.

Federal law requires that a "Contrary to the Welfare" finding be made at the first judicial hearing following a child's removal. Thereafter, should a child remain in foster care, a hearing must be conducted to determine that reasonable efforts to prevent removal have been accomplished. This hearing could occur in conjunction with a Shelter, Disposition or Review Hearing or could occur at a Permanency Hearing. A judicial finding that reasonable efforts have been accomplished with regards to removal prevention must be made within 30 days of the date of the initial removal. If removal remains in the best interest of the child, then a permanency plan must be adopted at that hearing identifying the permanency goals for the child. Thereafter, so long as the child remains in care, a Permanency Hearing must be conducted annually.

Section 42 U.S.C. § 671 requires that a permanency hearing must occur within 12 months after the date the child is removed from their parents or legal custodians and must re-occur not less frequently than every 12 months thereafter during the continuation of the removal. At the permanency hearing the court must either adopt the child's first permanency plan or review and document what reasonable efforts have been made to achieve the previous permanent plan for the child. If the court is reviewing an existing permanency plan, the court must also determine if the existing permanency plan continues to be appropriate for the child or whether a new permanency plan should be adopted. Permanence hearings are required until a permanent option is achieved for the child or the child is returned home. Annual permanency hearings are even required to be conducted for children who become runaways during the period of the removal. For those children whose permanency plan is adoption, permanency hearings must be conducted annually until the child's adoption is finalized.

In order for Mississippi to receive reimbursement for funds expended for foster care maintenance payments, it is imperative that the Mississippi Department of Human Services document that permanency hearings have occurred. All permanency hearing orders as well as other court orders effecting permanency plans, should be forward immediately to the court's local Mississippi Department of Human Services office upon entry.