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January 31, 1981

## State Fisheries Compact Adopt Winter Season

PORTLAND—The Oregon-Washington State Fisheries Compact on January 15 adopted winter season regulations for the mainstem Columbia River. Winter salmon seasons, sturgeon and other fishing regulation changes for 1981 are as follows:

### ZONE SIX

Salmon Gillnet season: Bonneville to McNary Dam, open noon Feb. 1 to noon April 1 for a total of 59 days. Gear restrictions have no change from 1980 requirements.

Sturgeon setline season: open year around except closed from noon May 31 to noon August 1. Gear is same as 1980. Limited to no more than 100 hooks per setline. Buoy or marker must have the tribal identification number of the individual operating the setline. The size limit is four feet to six feet and must be delivered to processors with head and tail on.

Miscellaneous regulations: Herman Creek area will be

open to commercial fishing below deadline markers to be placed at the mouth of the creek.

Lower River Salmon gillnet season: Open 6:00 p.m. on Feb. 23 to 6:00 p.m. on Feb. 27 for a total of four days. Closed 6:00 p.m. on Feb. 27 to 6:00 p.m. on March 1 for a total of two days. Open 6:00 p.m. on March 1 to 6:00 p.m. on March 3 for a total of two days.

Sturgeon Setline Season: open year around except from noon April 30 to noon August 1. Gear is the same as in 1980 with area closures also the same in 1980.

Shad season: the Compact recommends a 14-day season being May 26-29 for four days, June 1 through 5 for five days and June 8 through the 12 for five days. Treaty fishery above Bonneville Dam: the Compact recommended that the treaty Indians continue to be allowed to sell dip-net caught shad. The joint staffs will continue to support efforts by the Columbia River Fisheries Council and USFWS to develop experimental fishing gear and

fisheries to selectively harvest shad, especially in the area above Bonneville Dam.

Under miscellaneous regulations the definition of commercial fishing boundary at Herman Creek-Bonneville Pool [Oregon only]. Herman Creek closed to commercial fishing upstream from deadline markers near the mouth. The Compact recommends no change for the following regulations at this time: smelt; anchovies, herring and pilchard bait fishery; fishing gear; and Treaty ceremonial and subsistence fishing.

For more information in regards to above season, please contact: Columbia River Inter-Tribal Fish Commission, 8383 N. E. Sandy Blvd., Suite 320, Portland, Oregon 97220 or telephone 503/257-0181.

## NEW MISS YAKIMA NATION XI

BY SHIRLEE SPENCER

TOPPENISH—Arlene Stephanie George, whose given Indian name is Squwii-pum, was crowned the new Miss Yakima Nation XI during a special powwow and ceremony held in her honor on Dec. 20 at the Stanely Smartlowit Education Center. Arlene was crowned by Miss Tiinowit Trudy Pinkham and will serve out the term of Laurie James Teeias which she vacated upon her marriage.

Arlene is the daughter of Leander and Delores George. She is 19 years of age and a 1980 graduate of Toppenish Senior High. She presently attend Bacone College in Muskogee, Oklahoma where she is in her first year majoring in computer science with a minor in music [vocal].

As the new Miss Yakima Nation, Arlene possesses many traditional talents and is involved in several social and community organizations. She and her family are best known as the "Yakima Nation Treaty of 1855 Singers" of which Arlene is both a drummer and singer.

For the past five years Arlene has been an active auxiliary member of the Native American Indian Women's Association [NAIWA] with plans of attending the national NAIWA conference in Wisconsin this year and the Sagebrush Associates, a performing arts group. She is an accomplished beadworker having beaded costumes, bags, jewelry and other artifacts. She enjoys travelling to other powwows and loves to participate in traditional dancing. She will be doing much of this as she travels throughout Oklahoma representing the Yakima Nation while at the same time attending

college.

While in Bacone Arlene is attending the Baptist Church but is traditionally a member of the Washut Religion. When home Arlene goes to the Satus Longhouse where she prides herself in dressing in the traditional wingdress attire for feasts and social ceremonies.

Her maternal grandparents are Elsie Pistolhead and the late Allen Harrison; her paternal grandparents are the late Pete and Sophie George. She has five sisters: Anna, Colleen, Deanna and Katherine George and Esther Telakish; two brothers, Gary and Brian George, all of whom reside in the Wapato-Toppenish area.

Arlene is a former winner of the Pendleton Round-Up Junior Beauty Pageant and was the 1978 Washington's Birthday Celebration queen. While attending school in Toppenish she was a member of the Indian Club.

Upon completion of her two years at Bacone College, Arlene plans to enter a four-year college, possibly Central Washington University at Ellensburg. She is majoring in computer science and minoring in vocal music. She is a member of the Bacone College Travelling Choir.

Arlene returned to Bacone on Jan. 15, following a "farewell" dinner in her honor held at the Wapato Longhouse. Her only regrets are that she couldn't spend more time among her people during her reign as Miss Yakima Nation. But in the meantime, she will represent the Yakima Nation at Oklahoma and taking with her the Yakima Nation hospitality.



Arlene Stephanie George

# WHAT'S HAPPENING

## Washington Birthday Committee seek Queen Candidates

TOPPENISH—The 43rd Annual Washington Birthday Celebration will be held this year on Feb. 18 through the 22 at the Toppenish Community Center on Meyers Road. Presently the committee is seeking candidates to be Miss Washington Birthday Celebration queen and Miss Junior Princess.

Qualifications for girls interested in vying for Miss Washington Birthday queen are: must be 18 years of age or older, a high school senior or a graduate; must present a traditional talent; will be interviewed but not for judging; must be at least one quarter degree Indian ancestry; must be single and have no children. Will be required to sell raffle tickets and will receive a 15 percent commission on sales.

Qualification for girls interested in Miss Junior Princess are the same for queen with the exception of age set at six through 17 and must be in school. Raffle tickets to be sold. Also for those running for queen a Miss Congeniality will be selected from among the candidates.

ted from among the candidates.

An added feature to this year's event will be a "dog show" with a rabies clinic to be held in conjunction with the show, so that dogs who need shots that can be done. Dogs participating in the show will receive a Yakima Indian Nation dog tag. Four categories for the dog show are: the most outstanding dog; the ugliest dog; the most-well mannered dog; and the best dressed dog.

The committee has scheduled Sammy White, a Kiowa Indian hailing from Oklahoma, to be the mc; another invited guest is Miss NCAL. Girls interested in seeking candidacy are asked to attend the committee meetings which are held on Sunday at the Orrin Miller residence in Wapato. For more information you may contact: Christine Smison at 877-2823; Chum Hill at 510 Adamsville Park in Wapato; or Nadine Spino who is at 865-5121.

## "ENRICHED LIVING"

TOPPENISH—Enrich Living Workshops for Women presents a seminar designed to help women discover how they can know and follow God's pattern for Enrich Living. The seminar is scheduled for March 3 and 4 at the Calvary Baptist Church and will be taught by Verna Birkey.

Biblically oriented, this Audio-Visual Teaching presentation is taught by Verna Birkey, former teacher, counselor, and for seven years Dean of Schools at Ben Lippen School in Asheville, North Carolina. These workshops grow out of strong conviction that God "can" fulfill the woman's needs and wives "will" be happy as they know and live according to God's specific design, and that mothers "can" understand and meet the real needs of their children.

The Workshop seeks to carefully define practical steps women can take to create harmony in the home, accept others, develop a sense of self-worth, help others develop a sense of self-worth, keep lines of communication open, discipline effectively and gain the assurance of being loved. The session is vividly presented using full-color pictures of Verna Birkey teaching and graphically illustrated projected visuals. The sessions are open to all women—single, married, widows, older, younger, homemakers, professional women, students—women of all walks of life.

For more information call: Calvary Baptist Church, Hawthorne and Goldendale Aves., 865-3456; Marcine Landers, 865-3517; Pam Labbee, 848-2188; Pat Augenstine, 765-5348. Register before Feb. 4 and bring a sack lunch.

## Tax Return Assistance

TOPPENISH—The Yakima Indian Nation Training Program is setting up an all-day workshop to help people with their Income Tax Returns. This service is provided by the Volunteer Income Tax Assistance Program [VITA]. Mr. Johnny Johnson, a VITA representative, will again be providing this help as he did in the previous year. There is no charge for this service as Mr. Johnson and his trained Tribal employees will be giving this assistance voluntarily.

The date has been set for February 21, a Saturday, at the Yakima Tribal Headquarters, Conference Room 207 here in Toppenish, from 8:00 a.m. to 4:00 p.m. Be sure to bring your W-2 forms and other papers you think you will need. Remember this assistance is FREE of charge.

## Yakima Nation review

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# at a glance

## THEATRE ANNOUNCES APPOINTMENT

WAPATO—The Tables Repertory Theatre announces its acquisition of Ms. Linda Proulx, a Cree-Metis Indian from Canada, as its manager. Ms. Proulx is a member of Confederation College, performing arts management, Thunder Bay, Ontario. She is currently working with the theatre's founders, Joseph Galata and Shay Whitman here on the upcoming production "Circles in a Glass". This three act play is about the affects of alcohol on family relationships. Ms. Proulx accepted this post in lieu of her affection for the Yakima Valley and her desire to devote her time and abilities to the cultural growth of this religion.

## NEW BENEFITS FOR WORLD WAR I VETERANS

YAKIMA—New laws recently passed by Congress have entitled World War I veterans to benefits which previously were not available to them. To qualify for World War I veterans status a veteran must have served honorably for at least 90 days on active duty with any part of this service between April 6, 1917 through Nov. 11, 1918.

The following benefits are automatic upon application and verification of World War I status: an out-patient treatment care which entitled these veterans for free medications provided by the V.A. medical system and medical care locally, not to exceed \$55 per month. In addition to this benefit they are also eligible for priority admission for out-patient or in-patient care within the V.A. medical system.

To obtain these benefits it is necessary that the individual verify his World War I veterans status and make proper application to the V.A. for these benefits. Any assistance in applying for these benefits can be obtained by contacting the Veterans Benefits Specialist at the Employment Security Department in Toppenish, WA., located at 516 West 1st, or by calling 865-4911, ext. 29 or the Department Service Office, 32 North 3rd Street, Rm. 333, P.O. Box 2853, Yakima, WA. 98907 or phone 509/453-9067.

## VETERANS OFFICE EXTENDS SERVICE AREA

TOPPENISH—The Veterans Service Office in Yakima is extending its service to the Toppenish area, with a full-time benefits counselor located at the Toppenish Employment Office. Anyone who needs assistance in applying for veterans benefits can call the Employment Security Department in Toppenish, 865-4911, extension 29, or stop by 516 West 1st., for immediate assistance with application for veterans benefits.

## TOPPENISH EAGLES SITE FOR CRP TRAINING

TOPPENISH—In three short hours learn to give "the pulse of life" with FREE Project CPR training scheduled for Feb. 4 beginning at 7:00 p.m. at the Toppenish Eagles. This three hour course may help save the life of someone you love. This free class is co-sponsored by Central Memorial Hospital and the Toppenish Area CPR Council and is taught by skilled trainers of the American Red Cross and the American Heart Association of Washington.

## STORY TIME FOR TODDLERS

YAKIMA—A special "Story Time for Toddlers", ages 18 months through 35 months, will be held Feb. 4 through Feb. 25 from 10 a.m. to 10:30 a.m. at the Yakima Valley Regional Library, 102 North Third Street. During the four session children will team up with a parent for some of the activities and games. There will be many stories, songs and finger games geared to the Toddler's interests. The Story Time programs will be in the Yakima Valley Regional Library Auditorium. For more information call the Youth Services Department 452-8541.

## SNOW SPREE—CROSS-COUNTRY SKI

YAKIMA—Camp Fire is sponsoring a weekend at Camp Roganunda for youth in grades 7 thru 12, on Feb. 21-22. Youth need not be Camp Fire members to attend. Even if there isn't snow, there will be hiking and other outdoor fun. It is suggested that youth take inner tubes, sleds, snow shoes, cross-country skis, and any other outdoor equipment that will add to the fun. For those who indicate their interest in advance, there will be cross-country ski lessons on Sunday. Dennis Mewshaw, an experienced instructor from Jed's will provide free instruction.

Participants should remember to take a sleeping bag and a change or two of clothing. The weekend will be from 10 a.m. Saturday until 3:30 p.m. on Sunday. The registration deadline is Feb. 13 and to register go to the Camp Fire Office, 343 Washington Mutual Bldg., Yakima; for more information call 453-9151.

# Rev. Martin speaks on Alcoholism

BY PAT SKAHAN

YAKIMA—A speech can consist of spoken words said before an audience who may choose to listen to it or it may be the words of inspiration needed by so many. Once a reputation is established word soon gets out that there may be hope and you can bet the response will be overwhelming. Such was the situation upon the arrival of Father Joseph C. Martin as he was scheduled to speak on "alcoholism" at the convention center here on Jan. 21.

January has been declared "alcohol awareness" month and with cooperative efforts of the surrounding community, the Rev. Martin came to address this the second annual event. Father Joseph C. Martin is reknown as the originator of the film "Chalk-Talk on Alcohol" which has become a principal educational vehicle on alcoholism for the Federal government, armed services, industry, the Mayo Clinic, hospitals, rehab centers and state alcoholic programs.

The over-sold convention was filled with many who work in the field of alcoholism those interest groups who are learning about alcoholism and how to live with it, and those coming out of curiosity. To them Father Martin said that it was important that the community accept alcoholism as not being "evil" but as an illness which can effect the whole family. As a matter of fact it travels in families and until the proper education is available it "will not be wiped out" and that it can be "arrested but not cured because the illness is "too complex".

Said Father Martin, "We have symptoms of the of problems in front of us and we fail to see them." He told the crowd that he felt that the place to begin with "prevention" was by educating the youth .... "if you are going to drink, the choice is yours, but to drink responsibly." and that "too much too often can become addictive."

He advised that three decisions to be made when choosing to drink are: what to drink [hard or soft liquor]; how much; and on what occasions. "If you can control it fine, set your limits and make them reasonable...but the day you take 'one' swallow over that limit then you are in trouble."

That by setting reasonable limits for yourself

then you aren't making unreasonable guidelines for you to follow "Rules for drinking are hard to follow and turn people off. God has trouble getting us to keep 10 simple rules [the 10 Commandments] and someone is trying to make a few more."

"Drinking plus susceptibility equal the disease of alcoholism" and that the "crux of the problem is to control". The two distinct entities of alcoholism are alcohol abuse and alcoholism.

He stated that the reasons for not drinking are: alcoholism [the biggest reason for not drinking]; religion; fear of becoming an alcoholic; and just don't like alcohol. How do you handle the person that keeps shoving alcohol on you? Suggested Father Martin that if you are flying and alcohol is being served and the person sitting right next to you keeps insisting you have one tell him that it always makes you puke on the person who is sitting next to you. Or if you are at a party and someone who has had a few too many [known as peer pressure] is shoving drinks your way tell him that you are an alcoholic...he'll jump back because he doesn't want to catch it and also becomes he has never seen a live one before.

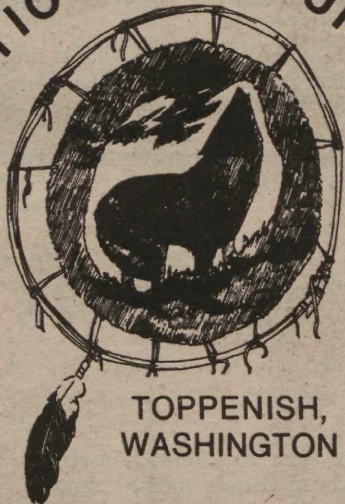
Other reasons for choosing not to drink are: if you are driving; taking medications; emotional reasons; to get even with someone; and because other people are. The conclusion to drinking is "self worth...if you are a garbage can then you will treat your body like one." And if you are one of those who decide not to drink, make that decision and then shut up...don't condemn those who choose to.

Said Father Martin, "I like steak but I have never gone to a restaurant and ate 50 of them until I got sick—but why drink that way? It is irrational to eat until you get sick."

"When drinking causes trouble it is. Ask your kids, if you have enough courage, about your drinking."

The presentation of Father Martin was sponsored by the Yakima Indian Nation Alcoholism Programs, the Yakima Valley Council on Alcoholism, the Valley Alcohol Council, Sundown "M" Ranch and the Alcoholism Administrative Board. See you next year!

YAKIMA NATION



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# Federal Government Mismanagement of Tribal Funds

BY RUDY SALUSKIN JR.

Yakima Indian Agency ---- In a recent visit to the Yakima Indian Nation, Yakima tribal claims attorney, Paul M. Niebell of Washington D.C., secured the formal approval of Yakima tribal government to accept the proposed settlement of Yakima tribal claims against the United States federal government for mismanagement of Yakima tribal trust funds now pending before the United States Court of Claims.

Included in the proposed settlement are U.S. Court of Claims docket number 343-74 and similar claims on behalf of the Yakima Indian Nation in dockets number 342-70 and 343-70. The settlement will result in a final judgement of 1,306,390.00 for and on behalf of the Yakima Indian Nation.

Originally, the Yakima Indian Nation joined some two dozen Indian nations and tribes as Plaintiffs in *Cheyenne-Arapahoe Tribes of Indians V. United States*, No. 342-70 and 343-70 in the U.S. Court of Claims, wherein they sought compensation from the United States for mismanagement of their tribal trust funds.

The mismanagement included failure to invest tribal funds at the highest interest rates of return available; failure to invest interest funds on deposit in the U.S. Treasury, where interest earned no interest; and failure either to deposit or invest tribal trust funds in a timely manner so that no income was earned for the periods the funds were not deposited in the U.S. Treasury or invested.

In 1975, a decision was obtained by United States Court of Claims which held that the federal government has a fiduciary duty or responsibility trust to maximize the return on tribal trust funds held in the U.S. Treasury by making prudent investments and thus the United States could be held liable for damages if it failed to manage tribal trust prudently.

The Court of Claims transferred the dockets to its trial division for trial on the issue of damages. The trial was recessed in 1979 to enable the federal government to correct its accounting so that both sides could prepare detailed damage schedules. Included was determining the amounts of damages owed by the federal government to the several tribes and nations.

Trial resumed concluded in March of 1980. Plaintiff tribes presented a very strong case showing that the United States failed to invest tribal trust funds so as to assure the tribe the best return. The plaintiff tribes and nations proved that the federal government had, for a number of years, held a large percentage of tribal funds in the U.S. Treasury where principal funds earned 4% per year and the interest earned nothing.

Dr. Roger F. Murray, a distinguished authority on financial management testified that the federal government's practice violated reasonable investment standards which resulted in substantial damages to the Indian tribes and nations. Damages were primarily measured by the difference between the return on trust funds held in the U.S. Treasury and the interest earned on the allowable outside investments of tribal trust funds made by the government.

After the trial, Yakima tribal claims attorneys entered intensive settlement negotiations with the legal counsel for the U.S. Justice Department, which resulted in of 1,306,390.11 in behalf of the Yakima Indian Nation. The federal government refused to even consider settlement before the trial. The proposed settlement offer was approved by the U.S. Attorney General on October 3, 1980.

Yakima tribal claims legal counsel advised Yakima Tribal Officials in October, 1980, on the current status of the claims. The tribal attorneys recommended that the settlement was very favorable for the Yakima nation. However, questions still remained which resulted in the tribal officials requesting Niebell's presence to explain the nature of the settlement.

The approval secured by Niebell, enables him and Wilkinson, Cragun, & Barker law offices, who in association with Niebell have a contract for filing and prosecuting Yakima tribal claims against the United States, the authority to consummate the proposed settlement. Pursuant to the



Attorney's who are prosecuting the U.S. to consummate proposed settlement. (Left to Right) Paul M. Niebell from Washington D.C.; Frances L. Horn of Wilkinson, Cragun, & Barker Law Offices in D.C.; and James Hovis Tribal Attorney of the Yakima Indian Nation.

contract, the payment of attorney's fees in the amount of \$130,639.00 which is approximately 10% of the proposed settlement and actual litigation expenses incurred in an amount not to exceed \$26,125.00 which is approximately 2% will be deducted from the recovery.

Any Indian nation, tribe, band, or other identifiable group of American Indians have recourse in the federal courts for alleged breach of fiduciary or trust responsibility by the United States federal government. For compensable claims arising prior to 1946, the Indian Claims Commission was the proper forum. The Indian Claims Commission was established to hear and determine claims against the United States. For claims after 1946, the proper forum has been the U.S. Court of Claims.

U.S. Court of Claims docket no. 310-74 involved Yakima tribal claims for mismanagement of tribal trust funds. In U.S. Court of Claims docket no. 342-70, the Yakima

Nation joined as plaintiffs, the Cheyenne-Arapahoe, Colorado River Tribes, Confederated Colville Tribes, Confederated Tribes of the Umatilla Reservation, Hoopa Valley Tribes, Indians of California, Pyramid Lake Paiutes, Southern Utes, Confederated Utes, Western Shoshone, and the Yankton Sioux, in a claim based on mismanagement of tribal judgement funds in the case of *CHEYENNE-ARAPAHOE TRIBE V. UNITED STATES*, (C. 001227) in docket no. 343-70, the Yakima Nation joined as plaintiffs, the Cheyenne-Arapahoe, Confederated Colville Tribes, Yakima, Confederated Tribes of the Umatilla Reservation, Fort McDermitt and Fallon Reservations, Paiute-Shoshone, Pyramid Lake Paiute, Reno-Sparks Indian Colony, Walker River and Yerrington Paiutes, Paviotso, Monos, Oregon Paiutes, Hoopa Valley Tribes, Indians of California, Southern Utes, Tlingit, Haida, and the Yankton Sioux, in a claim based on breach of fiduciary responsibility resulting in mismanagement of tribal trust funds.

## Children's Dental Health Poster Contest

It's time to "Smile, America" — February 1st through 28th is Dental Health Month! And to promote good dental health, McDonalds in Yakima is holding a special poster contest for school children from kindergarten through sixth grade.

All entrants receive a coupon for a "free" regular order of fries when they bring their handmade poster in to McDonalds Restaurant on South First Street in Yakima.

Individual winners from each classroom in every school receive a free "happy meal" from McDonalds. The Grand Prize winner hosts a free birthday party for 15 people at McDonalds, according to spokeswoman, Jan Luring.

All posters should be 12"x18" in size. Crayons or colored marking pens are preferred. Each should carry the student's name, address and school on the back.

Judging takes place the week of February 15-21. Posters will then be displayed at the Valley Mall and at McDonalds

the week of February 22-28.

A number of special activities and events will be taking place throughout the month in many Yakima Valley Public schools.

Poster contest information is available through Jan Luring, Community Relations Representative for McDonalds, at 248-2176.

Follow-up Ideas: — Yakima Dental Society dentists each have one or more schools in which they act as advisor/consultant to teachers on dental health teaching and awareness activities.

— A Yakima dentist takes student-patients each Tuesday at the Yakima Vocational Skills Center (1116 S. 15th Ave.) giving student dental assistants in classes at the Skills Center the opportunity for actual "on-the-job" experience (Contact: Bev Regimbal, instructor, at 575-3289).

# PERSPECTIVES

## Interim Final and Proposed Federal Rules for PL 96-272 the Adoption Assistance and Child Welfare Act of 1980

### INDIAN REVIEW & COMMENT NEEDED:

Please find proposed federal rules related to the Adoption Assistance and Child Welfare Act of 1980. Note there are:

-1. Provisions for direct federal funding to Indian tribes and organizations.

-2. Ten serious issues on how state agencies will deliver services to Indian children and families not under the exclusive jurisdiction of a tribal court, or living off-reservation

TO THOSE INTERESTED IN THE INDIAN CHILD WELFARE ACT OF 1980:

I am enclosing a copy of Part VI of the December 31, 1980 Federal Register which contains the Interim Final and Proposed Rules for implementing PL-96-272.

We have chosen to use both interim final and proposed rules in order to get the program into operations as soon as possible; this will enable the States to submit requests for reimbursement prior to the finalization of the regulations after the close of the comment period. This assures that currently available federal funds will be used for eligible assistance and services to children and families.

The hearings/forum schedules in your region is just one step in the development of a national dialogue on the approach and substance of those regulations. I welcome your participation in the hearings/forum. The afternoon session is designed to involve everyone in the dialogue. The final deadline for receipt of your written comments will be close of business on March 16, 1981, so that if you are unable to attend the hearing in your region, your written comments will be given full review, and will be critical in our policy formulation process.

Sincerely,

JOHN A. CALHOUN  
Commissioner, Administration for Children  
Youth and Families

We have chosen to use both interim final and proposed rules in order to get the program into operations as soon

#### REQUIREMENTS APPLICABLE TO TITLE IV-B

AGENCY: Office of Human Development Services (OHDS), HHS.  
ACTION: Interim Final Rule.

SUMMARY: The Office of Human Development Services is issuing a regulation which describes the systems and programs that the Secretary will find satisfactory as meeting the requirements of Section 427 of the Social Security Act (the Act).

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-262) amended the Social Security Act. The amended Act requires that in order to be eligible—

(1) for title IV-B funds in excess of its proportionate share of \$141 million (Sec. 427 (a) or  
(2) to transfer unused title IV-A or IV-E foster care funds to title IV-B for use in the provision of child welfare services in an amount which, together with the States IV-B allotment would exceed its share of \$141 million a State must meet the following conditions of Section 427(a):

1. An inventory of all children who have been in foster care in the State for six (6) months or more including certain determinations as to the appropriate placement of

the child.

2. Implementation and operation of—

- A. A Statewide information system for children in foster care.
- B. A case review system for children in foster care.
- C. A service program designed to reunify families or achieve other permanent placement.

The Act further provides that in addition to the systems and program described above for Section 427(a) of the Act, a State must also implement and operate a program of preplacement preventive services designed to help children remain with their families (Sec. 427 [b][3] in order to—

1. Avoid reduction of its funds to the Fiscal Year 1979 level, if title IV-B appropriations reach \$266 million for two consecutive years [427[b]]; or
2. Receive federal financial participation under titles IV-A or IV-E for foster care maintenance payments made on behalf of children placed pursuant to a voluntary placement agreement (Section 102, Pub. L. 96-262); or
3. Transfer unused title IV-E foster care funds to title IV-B for use in the provision of child welfare services, when appropriations under title IV-B have equaled or exceed \$266 million for two consecutive years [Section 474[c][4][b)]; or when the State has claimed reimbursement under IV-B in a sum equal to or exceeding under IV-B in a sum equal to or exceeding its share of \$266 million for two consecutive years [Section 474[c][4][c].

These provisions are also being published as part of the proposed rules for Publ L. 96-272 so that the reader will not have to refer to the Interim Final Regulation when reviewing the NPRM. This regulation is the same provision published as Section 1357.30 in the NPRM, with one exception. The requirement for a case review system appears in Section 1356.40[d] of the NPRM and is added as an additional paragraph in this regulation, Section 1357.30[d]. A complete discussion of these provisions is contained in the Supplemental Information to the proposed rule governing Pub. L. 96-272, 45 CFR Parts 1355, 1356, and 1357. The proposed rule is published concurrently with this interim final rule.

DATES: This regulation is effective December 31, 1980. We will accept written comments on this regulation through March 16, 1981.

ADDRESS: Comments must be in writing and set to: Frank Ferro, P.O. Box 1182, Washington, D.C. 20013. For further information contact: Frank Ferro, Associate Chief, Children's Bureau, 292/755-7418.

LEGISLATIVE AUTHORITY: The President signed the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272) into law on June 17, 1980. These Amendments made some changes in title IV-B of the Act which provides States with child welfare services funds and create a new title IV-E to provide reimbursement to States for foster care maintenance and adoption assistance for eligible children.

#### REGULATORY ANALYSIS

Based upon the conditions established in Executive Order 12044 and the Secretary's implementing instructions, a threshold study has determined that a full regulatory analysis is not required of this significant regulation.

#### PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV-B

†1357.30 Requirements for state eligibility for additional payments.

[a] For any fiscal year after FY 1979 in which a sum in excess of \$141,000,000 is appropriated under Section 420 of the Act, a State shall not be eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to \$141,000,000 unless the following conditions have been met—

[1] The State has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of six months or more preceding the inventory as described in paragraph [a][3] of this section.

[2] The State has implemented and is operating—

[i] A statewide information system as described in paragraph [a][4] of this section:

[ii] A case review system as described in paragraph [d] of this section for all children receiving foster care under the supervision of the State; and

[iii] A program of services designed to reunify children with their parents or families or to provide alternative permanent placements through adoption or legal guardianship as described in paragraph [a][5] of this section.

[3] Inventory.

The inventory shall be a listing of all children who have been in foster care for six months or more, by case number, date of birth, date of initial and current placement, and date of last administrative or judicial review, and for each child listed in the inventory the State agency shall determine—

[i] The appropriateness of and necessity for the current foster care placement;

[ii] Whether the child can or should be returned to his parents or freed for adoption; and

[iii] The services necessary to facilitate either return to the parents, placement for adoption or legal guardianship for the child.

[iv] In making the determinations required in this paragraph the State agency may use information from a case review conducted within the preceding six months, or the determinations may be made at the time of the child's next scheduled case review or earlier, at the option of the State. If the determinations are made independently from the case review, the State agency shall follow the procedures required in paragraph [d] of this section, [Case Review System] to determine—

[A] The appropriateness and necessity of the current foster care placement;

[B] Whether to focus on reunification or adoption; and

[C] The services necessary to attain the placement goals.

[v] The State shall submit to the Secretary (in a form and manner to be prescribed) a report of the date gathered and the manner in which the inventory and shall include—

[A] The total number of children in foster care at the time of the inventory by age, legal status, race, and sex;

[B] The number of children in foster care six months or more at the time of the inventory, by case plan goal, age, race and sex. Case plan goals to be used in the report shall be returned to own home; place for adoption place with legal guardian[s]; independent living; other permanent placement; long term foster care; and other [specify].

[C] The number of children who are free for adoption and the approximate number thought to be eligible for adoption assistance under title IV-E.

[4] Information System.

The State agency shall establish a permanent Statewide information system. The systems shall make it possible:

[Cont. on Page 6]

# INDIAN REVIEW

[Cont. from Page 5]

to determine the locations of all children who have been in foster care during the preceding twelve months; to help ensure progress in moving children into permanent status wherever possible, through return home or through adoption; to document preplacement preventive services; to support proper case management; to provide a source of data for the reporting, monitoring, evaluation and inventory requirements of the Act; and to provide the State and Federal government with information for planning, policy development, technical assistance and budgeting.

[i] The statewide information system shall be capable of providing data from which the legal status, demographic characteristics, location and goals for placement of every child currently receiving foster care services or who has been in foster care within the preceding twelve months, may readily be determined.

[iii] The information system shall, at a minimum, meet the following criteria—

[A] Provide individual and aggregate data on all children receiving services for each political subdivision of the state;

[B] Provide for the use of uniform definitions as the Secretary may require;

[C] Provide for aggregation of data for the State consistent with dates, format and procedures as the Secretary may require; and

[D] Provide for access to the case record for each child which will facilitate tracking and case management. The case record shall include—

[1] A unique identifier

[2] Child and family information (identification of child and family; name, ID number, address, and demographics including special needs;

[3] Date case opened (new or reopened);

[4] Legal/custody status;

[5] Eligibility status (IV-A, IV-B, IV-E, SSI);

[6] Living arrangement;

[7] Placement history for voluntary and involuntary placement beginning with the date of the current continuous placement including (as appropriate), reasons for removal from home: type of adoptive home [relatives, foster parents, other]; adoption subsidy status; date freed for adoption and awaiting placement;

[8] Case plan goals;

[9] Time tables;

[10] Frequency of parental contact with the child and agency over the previous six months;

[11] Services provided;

[12] Source of services provided (public/private agency, direct or purchased);

[13] Dates when reviews and dispositional hearings are due and held; outcomes;

[14] Date of revocation of voluntary placement;

[15] Date and reason for client discharge or case closure (record retained for 12 months; and

[16] Identifier for local agency, caseworker and supervisor;

[E] Assure compliance with Part 95, Subpart F of title (HHS approval of systems procurements in excess of \$100,000 for which Federal financial participation is requested); and

[F] Assure protection of government rights to systems developed with Federal financial participation, as described in 45 CFR 74.145, Nonrevocable, royalty-free license.

[iii] The requirements under paragraph [a][ii] of this section shall be applicable to all children in foster care on October 1, 1980, or the date upon which the State desires to be found eligible for funds.

[iv] The case-specific information described in paragraph [a][4][ii][D] of this section shall be maintained in a manner which will facilitate State annual reporting on title IV-E eligible children in placement under voluntary agreement beginning in FY 81. This report shall be submitted to the ACYF on the last of November each year.

[v] States shall report and cooperate with studies (as prescribed by the Secretary) on children served in foster care or while remaining at home and on services provided to their parents. Forms and instructions will be furnished to the States after OMB approval.

[vi] To meet Federal reporting requirements, States shall provide information as the Secretary specifies.

[5] Services Designed to Reunify Families or Achieve Other Permanent Placements.

[i] The program of services designed to help children return to their homes shall include—

[A] A core of reunification services which shall include day care services, homemaker or caretaker services, and family or individual counseling for parent[s] and child;

[B] Other services which the State agency identifies as necessary and appropriate to facilitate reunification of children and families may be provided, such as respite care; parent education; self-help groups for mental, health, alcohol and drug abuse counseling, and vocational counseling or rehabilitation.

[C] Written guidelines which stress the value of worker involvement with the family of the child early in the placement and the importance of maintaining and strengthening parent-child relationships through frequent and regular visits. The guidelines shall contain principles, policies and procedures which workers must follow—

[1] In determining the appropriate reunification services for each family's situation;

[2] In providing (for at least three months) post placement supportive services; and

[3] In determining that a child cannot be returned home.

[ii] The program of services designed to facilitate adoption or legal guardianship shall include—

[A] Legal services to free children for permanent placement, including voluntary relinquishment, termination of parental rights, or activities required by the State to establish legal guardianship;

[B] Adoptive services, including recruitment and preparation of adoptive families, registration with adoption exchanges; identification of current foster families as appropriate adoptive parents for children in their care, counseling, and follow-up services to support the placement;

[C] Other activities identified by the agency as necessary and appropriate for permanent placement, such as training families to care for special needs children; training workers to meet legal requirements for court actions; post-adoption services, including parent support groups and other self-help groups; and

[D] Written guidelines which contain principles, policies and procedures which workers shall follow—

[1] In determining the most appropriate plan for the child who cannot return to his or her family, giving first consideration to adoption, followed by alternatives such as legal guardianship, or long-term foster care in exceptional circumstances; and

[2] In determining the appropriate procedures for placement, including preparation for placement, follow-up, and support services as needed for parents, legal guardians, foster parents, and children.

[iii] For each child under the care of the State, the case plan as required in paragraph [d] of this section, Case Review System, shall include—

[1] Goals for reunification of factors considered in a determination that the child cannot be returned home and goals for alternative permanent placement; and

[2] Documentation of the caseworker's actions in application of the principles, policies, and procedures set forth in the State's guidelines as required in subparagraph [a][6][i][C] or [a][6][ii][C] as appropriate.

[iv] A description of the program of services to reunify families to achieve other permanent placement shall be submitted to the RPD for review and approval.

[6] Determinations as to whether a State agency has met the requirements of paragraph [a] of this section shall be based upon the reports submitted and on-site surveys of implementation and shall be made prior to award of additional payments.

[b] If, for any two consecutive fiscal years after Fiscal Year 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than \$266,000,000 a State's allotment amount for any fiscal years after two consecutive fiscal years shall be reduced to an amount equal to its allotment amount for Fiscal Year 1979 unless the following conditions have been met—

[1] The State agency has completed an inventory of children in foster care and determination of the appropriateness of placement and the report of the type specified in paragraphs [a], [3], and [4] of this section;



[2] The State agency has implemented and is operating—

[i] A statewide information system as described in paragraph [a][4] of this section;

[ii] A case review system as described in paragraph [d] of this section for all children receiving foster care under the supervision of the State; and

[iii] A program of services designed to reunify children with their parents or families or to provide alternative permanent placements through adoption or legal guardianship as described in paragraph [a][5] of this section.

[3] The State agency has implemented and is operating a program of preplacement preventive services, policies and procedures designed to help children remain with their families.

The State Agency's program of preplacement preventive services shall include—

[i] Twenty-four hour emergency caretaker and homemaker services, day care, crisis counseling, individual and family counseling, emergency shelters, procedures and arrangements for the provision of temporary child care to provide respite to the family for a brief period, as part of a plan for preventing foster care placement.

[ii] Other services which the agency identified as necessary and appropriate, such as home-based family services; self-help groups; provisions of, or arrangements for, mental health, drug and alcohol abuse counseling, and vocational counseling or vocational rehabilitation;

[iii] Written guidelines which workers shall use for assessing the feasibility and appropriateness of services to support and improve family functioning or for determining when a child should be removed from a home and which specify the factors to be considered in making such a decision, including who within the agency shall be involved in the decision.

[iv] Written guidelines which specify the circumstances in which prior efforts to prevent placement would not be required, including situations when—

[A] The circumstances in the home present a substantial risk of harm to the child's welfare; or

[B] Preventive services have been offered but were refused by the family.

[4] For each child under the care of the State, there shall be documentation in the case plan of caseworker efforts to prevent placement through the application of the principles, policies and procedures set forth in the State's guidelines as specified in paragraph [b][3][iii] and a statement as to why such efforts failed to prevent the child's removal or why these efforts were not required.

[5] A description of the program of pre-placement preventive services shall be submitted to the RPD for review and approval.

[6] Determination as to whether a State agency has met the condition of paragraph [b] of this section shall be based upon the reports submitted and on-site surveys of implementation.

[c] Amount expended by the State for the purposes of complying with the requirements of paragraphs [a] and [b] of this section shall be conclusively presumed to have been expended for child welfare services.

[d] Case Review System. The State agency shall develop and implement a case review system that shall

[Cont. on Page 7]

[Cont. from Page 7]

ensure, for each child receiving foster care maintenance payments under the State title IV-E plan, a case plan, periodic review of the child's status, and procedural safeguards regarding the rights of the child and the parent[s].

[1] Definition of Terms.

[i] Appropriate Notice to the child means written notice or person-to-person discussion that takes into account the child's ability to understand what is being conveyed without raising excessive anxiety or fear.

[ii] Child of Appropriate Age means that the child is able to understand the circumstances and implications of the situation in which he or she is involved and is able to participate in the decision or process without excessive anxiety or fear.

[iii] Close Proximity to Parent[s] Home means a placement nearest the home community or residence of the child's parent[s] or legal guardian[s] that is consistent with the child's best interest and special needs. Factors to be considered include ease with which the child, his or her parent[s] and family may visit each other and the availability of services the child may require.

[iv] Determining the Continuing Necessity and Appropriateness of Placement means an assessment of the conditions in the child's own home to determine whether the child should return home. If the review of the home indicates that continued foster care is required, the assessment shall also include a determination of whether the placement and the services provided are appropriate to the child's needs and whether the service goals in the case plan are still appropriate.

[v] Placement in the Least Restrictive Setting means the most family-like setting that can provide the environment and services needed to serve the child's best interests and special needs. In order of consideration, this means placement with relative[s], TRIBAL MEMBER[s], foster family care, group home care and institutional care.

[2] Case Plan.

[i] The State Agency shall develop written policies and appropriate procedures to be in effect throughout the State which will assure that children will be placed in the least restrictive setting available and in close proximity to the parent[s] or family home, consistent with the best interests and special needs of the child. The State agency shall develop a Statewide procedure for approving out-of-State placements or placements beyond a specified distance from the child's home.

[ii] The case plan shall be a separate, identifiable written document which includes for each child a relevant history and diagnostic assessment, sets goals, and describes significant transactions involving the child, including, after Oct. 1, 1983, the preventive services which were offered or provided prior to placement.

[iii] The case plan shall be developed within a 30 day period, starting at the time the agency assumes responsibility for providing services or placing the child, and shall include at a minimum—

[A] After Oct. 1, 1983, a description of the services offered or provided which were intended to help the child remain with his family;

[B] A description of the type of home or institution in which the child is to be placed;

[C] A justification of appropriateness of placement that discusses the child's best interests and any special needs, and whether the placement is in the least restrictive setting available and in the closest proximity to the parent[s] home;

[D] A statement of all requirements of the court at the time of judicial determination or recommendations of the administrative review panel had a discussion of how the agency responsible for the child's care will meet the requirements and recommendations;

[E] An analysis of the circumstances that necessitated the placement and the improvements required to the child's return to his or her home;

[F] A statement of the goals, developed in consultation with the child and his or her family, to be achieved during the period of placement, a description of the services to be provided to the child, the child's parent[s] and family, and a discussion of the appropriateness of these services in meeting the goals and the child's special needs, if any;

[G] A statement of the agency's plan for assuring that the child receives proper care while in the foster home or institution including services to the foster parent[s] to facilitate and support the child's adjustment, and that services are provided to the parent[s] and child in order to improve the conditions in the parent[s] home;

[H] An estimated date by which a decision will be made to return the child to his or her parent[s] or family, or to seek an alternative permanent placement including adoption;

[J] Where long term foster care is determined to be the plan for the child's future, the responsible agency shall include a statement in the case plan of the special needs or circumstances that would not allow the child to be returned home or placed for adoption, and shall specify the efforts that were made to place the child with parent[s] or other family or in adoption;

[K] All parties to the development of the case plan, including the child, his or her parent[s] or other relative[s], shall receive a copy of the plan, which will include, whenever possible, signature[s] indicating that they have read and understood the plan;

[L] The case record shall contain a continuing, updated notation of the results of each court and administrative action or review affecting the child, and significant agency actions, services, or encounters relative to the case plan for the child, parent[s], and family, and the foster family.

[3] Periodic Review.

The case review system shall provide for a review of the status of each child no less frequently than once every six months by a court, or by an administrative review. The periodic review shall include—

[i] A determination of the continuing necessity for and appropriateness of the child's placement;

[ii] A discussion of the extent to which all parties have complied with the case plan and achieved the goals described in the plan;

[iii] A summary of progress toward alleviating or mitigating the circumstances necessitating placement; and

[iv] A target date by which the child may be returned home or placed for adoption, legal guardianship or other permanent placement.

[4] Administrative Review.

[i] When the periodic review is an administrative review it shall be conducted by a panel of appropriate persons, at least one of whom is not a part of the direct line of supervision in the delivery of services to the child or parent[s] being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court and citizens qualified by experience, professional background or training.

[ii] Members of the administrative review panel shall receive instructions which will enable them to understand the review process and their roles as participants.

[iii] The administrative review shall be open to the participation of the parent[s] and the child, if of appropriate age, and may include the foster parents. The agency shall develop methods and procedures for assuring that written notice will be sent to the child's parent[s] two weeks prior to the review, notifying them of the date and location of the review, and the rights of parent[s] and the child to be accompanied by a representative of their choice.

[iv] Following the review, a written statement of the conclusions and recommendations shall be made available to all participants in the review, subject to agency safeguards relative to the confidentiality of information.

[5] Dispositional Hearings.

[i] The case review system shall require a dispositional hearing for each child no later than 18 months after placement; and shall have additional dispositional hea-

ring[s] annually thereafter, unless otherwise determined by a court of competent jurisdiction.

[ii] The dispositional hearing shall be held by a family, juvenile or other court of competent jurisdiction, including a TRIBAL COURT, or by an administrative body appointed or approved by the court.

[iii] The hearing shall determine the child's future status, including whether—

[A] The child should be returned to his or her parent[s] or other family member[s];

[B] The child should be continued in foster care for a specified period;

[C] The child should be placed for adoption or legal guardianship; or

[D] The child, because of exceptional circumstances, should remain in foster care on a long term basis as a permanent plan or with a goal of independent living.

[6] Procedural Safeguards for the Rights of Parents and Children.

[i] Procedural safeguards shall be applied with respect to the rights of parents, families and children pertaining to—

[A] Removal of the child from the home of his or her parent[s] or other family member[s];

[B] Any change in the child's foster care placement; and

[C] Any determination affecting the visitation arrangements of the parent[s] or other family member[s].

[ii] Procedural safeguards shall include—

[A] Prior written notice of the agency's intent to petition the court to remove a child from the home of his or her parent[s] or other family member[s]. Notice shall be provided two weeks in advance of the intended action and shall specify the nature of the hearing; how counsel may be obtained; the right to written findings from the hearing and how they may be obtained; and the right to appeal. The State shall have a method of verifying that the parent[s] or family received the notice.

This prior notice requirement will apply to all court proceedings with regard to neglect, dependency or termination of parental rights unless the child's health or well-being would be endangered if prior notice were given.

[B] A method of ensuring that notice of the intent to petition the court to remove the child from the home or to terminate parental rights is given in the language of the family and/or is given orally if there are indications that the parent does not read.

[C] Written notice of any intended change in placement or visitation agreement. The Notice shall be sent to the parent[s] or family two weeks in advance, with a statement advising them of their right to comment and to a review and discussion of the proposed change with a person not responsible for the case management or delivery of services to the parent[s] or child, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given;

[D] Procedures which shall ensure review of the parent[s]' objections and provide for a discussion of the proposed change with the parent[s]; and

[E] Appropriate notice of the intended change in placement or visitation arrangement to the child, given two weeks in advance, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given.

FOSTER CARE MAINTENANCE ASSISTANCE AND ADOPTION ASSISTANCE; CHILD WELFARE SERVICES

AGENCY: Office of Human Development Services [OHDS], HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department is proposing regulations to govern the new title IV-E program, Federal financial participation for Foster Care and Adoption Assistance, and revisions to the title IV-B program, Child Welfare Services, of the Social Security Act, contained in Pub. L. 96-272, the Adoption Assistance and Child Welfare Act of 1980.

Interim Final Regulations have also been issued to notify States of the procedures and protections that must be in place before a State can receive its share of title IV-B funds if appropriations are made in excess of \$141 million. These provisions also apply to transfer of funds from title IV-E to title IV-B for use in child welfare services, and to reimbursements for the allowable costs of voluntary placements of children in foster care.

DATES: Comments must be received on or before March 16, 1981. Comments on the proposed rule for fiscal requirements, including allotments, the transfer of funds and administrative and training expenditures under title IV-E [Sec. 1356.80] must be received on or before Jan. 30 1981.

[Cont. Page 8]



# COMMENT NEEDED:

[Cont. from Page 8]



ADDRESS: Send written comments to: Frank Ferro, P.O. Box 1181, Washington D.C. 20013. For further information contact: Frank Ferro, Associate Chief, Children's Bureau 202/755-7418.

The Department has established a demonstration project to assist qualified applicants with certain costs of commenting on these proposed regulations. The purpose of this project is to learn whether this kind of assistance will achieve a more complete discussion of significant issues and a greater diversity of oral and written comments. This project is described in a Notice published in Part VI of the Federal Register on Dec. 17, 1980 [45 FR 83172]. Please refer to that Notice for complete information on criteria for eligibility, on reimbursable costs and on completing the application form.

Applications for assistance to participate in one of the four regional meetings must be postmarked on or before the following dates: for Kansas City, Dec. 26, 1980; Denver-Dec. 29, 1980; Philadelphia-Jan. 2, 1981; and for Seattle-Jan. 8, 1981. Applications for assistance in preparing written comments must be postmarked on or before Jan. 21, 1981. These deadlines have been set to allow the Department sufficient time to review applicants. However, late applications will be considered to the extent possible.

An Evaluation Board will review all applications. To approve an application, the Board must be able to decide that it meets all the following three criteria:

1. The information the applicant plans to present will help the Department decide the issues in the proposed regulations.
2. The applicant represents an interest that otherwise might not be heard.
3. The applicant cannot otherwise afford the costs of participating in a regional meeting or developing written comments.

An application must contain the information necessary to show whether these three criteria are met. It must identify the issues of concern to the applicant, his or her positions on the issues, and for whom the applicant speaks. It must also describe the applicant's financial situation.

For further information and for application forms, contact: Carel Hedlund, Demonstration Project, Department of Health and Human Services, Room 706 E., 200 Independence Avenue., S.W., Washington, D.C. 20201, telephone 202/245-7545.

The Department urges everyone interested in the regulations to make their views known during the comment period by attending a regional meeting or submitting their written comments, whether or not they wish to apply for assistance.

## I. BACKGROUND

The landmark Adoption Assistance and Child Welfare Act of 1980 [Pub. L. 96-272] was enacted on June 17, 1980. Section 101 of Pub. L. 96-272 amended title IV of the Social Security Act [the Act] and created a new part E—Federal Payments for Foster Care and Adoption Assistance [IV-E]. That section provides for a phased repeal of Section 408 of the Act, which currently provides authority for Federal matching in State foster care payments under the Aid to Families with Dependent Children program (AFDC-FC). States may continue to receive Federal matching for AFDC-FC payments under Title IV, Part A of the Act [IV-A] until Sept. 30, 1982 or, if earlier, the quarter in which the State implements an approved State plan under title IV-E.

Public Law 96-272 also amended Title IV, Part B of the Act [IV-B] to consolidate, restate and in some instances

modify the existing Child Welfare Services Program. The most significant modification set new conditions on the States for receipt of their share of increased appropriations intended to improve protections for children in foster care.

The new law mandates need improvement in the State's child welfare and social service programs, strengthens and improves the program of Federal support for foster care of needy and dependent children, establishes a program of Federal Financial participation to encourage adoptions of children with special needs and encourages support for the family.

The impetus behind the passage of Pub. L. 96-272 was the belief of Congress, and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving children living away from parents rather than a system that assists parents in carrying out their roles and responsibilities and provides alternative permanent placement for children who cannot return to their own homes. Studies show that under current policies and procedures thousand of children are stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States.

The passage and enactment, thereby causing harm to the children and high costs to the States.

The passage and enactment into law of Pub. L. 96-272 [formerly HR 3434] demonstrates a Federal commitment to provide financial and technical assistance to States to make changes in their child welfare services systems. To reduce the number of children entering foster care, emphasis is placed upon the use of preplacement preventive services to help solve or alleviate the family problems that would otherwise result in the child's removal from the home. To reduce the number of children already in the foster care system, the law requires States to undertake several initiatives.

A State must enact a law by October 1, 1982, establishing annual goals for reducing the number of IV-E children remaining in foster care over 24 months. If a State is to receive Federal financial participation [FFP] in foster care maintenance payments under title IV-E after Oct. 1, 1983, it must provide services in all political subdivisions to facilitate the reunification of foster children with their families. To ensure that children do not remain adrift in the foster care system, a State must implement case plan and case review procedures that cyclically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and the family. To encourage family reunification, a State must attempt to place a child in close proximity to the family and in the least restrictive [most family like] setting, and finally, for those children who cannot be reunited with their families and who have "special needs" as defined in the regulation, financial assistance will be available to families adopting these children. In short, the new law rests on three pillars:

- Prevention of unnecessary separation of the child from the parents?
- Improved Quality of Care and Services to children and their families;
- Permanency through reunification with parents or through adoption or other permanency planning.

The foregoing is a brief summary of the major goals of the law. Sections II, III and IV of the Supplemental Information will discuss the more important provisions of the proposed regulation.

## A. Approach to Writing the Regulation

Publ L. 96-272 establishes a new program, the title IV-E program, which will replace the title IV-A foster care program not later than Oct. 1, 1982. In addition, the law makes changes in the IV-B child welfare services program and it ties the two programs together with numerous program and fiscal incentives. Thus, careful attention should be given to the cross references and linkages between Parts B and E. These linkages are discussed under the specific section to which they apply. They include funding provisions with respect to amount and timeliness of appropriations, transfer of funds, service requirements, administrative costs and training regulations.

While the goals of the law can become somewhat obscured by the complexity of the interrelationship of the

IV-B and IV-E programs, numerous provisions are drafted in the law with great specificity and leave little doubt as to intent. Consequently, the Department was able to incorporate into the regulation nearly verbatim many provisions of the law.

The law gave the Department discretion in implementing other important provisions. The Department held a public meeting to discuss the issues with outside organizations and established a senior level policy group to discuss alternative policy options and make formal recommendations to the Secretary.

Inevitably in writing regulations, difficult choices must be made from alternatives representing competing values and goals. This regulation is aimed to bring about changes within a reasonable timetable and may require participating States to make fundamental changes in their child welfare systems. Ultimately, the States will be the instrument of change. Many States have already begun to make the requisite changes. This regulation is drafted in recognition of the diversity of States and the variety of problem solving approaches extant. The Department has made every effort to be sensitive to State practice and has incorporated State recommendations in its approach and in framing the provisions of the proposed regulation. At the same time the regulation is specific enough to produce consistency in interpretation and uniformity in implementation.

The Department's purpose has been to draft a regulation designed to foster the desired changes, while allowing flexibility in the means of producing the changes required by the law. The requirements were developed after seriously weighing their consequences for children, parents, State practice, caseworkers, and others affected by the regulation.

## B. Financial Impact

Cost considerations are a critical element in the regulatory decision process. Full implementation of the intent of Pub. L. 96-272 and of the proposed regulation is expected to have considerable impact on the Nation's public child welfare services system.

Cost consequences, although not solely determinative, were carefully considered in drafting the regulation provisions. For example, the Department chose to require only those preplacement preventive services and reunification services that are essential to accomplishing the goals of the legislation, rather than a more extensive list of required services which Department concluded was too costly and would cause a financial drain from other vitally needed services. In dealing with the information and reporting requirements, cost and program considerations were combined. The information and reporting requirements in the Act have been interpreted to allow development of a Statewide information system that will meet the reporting requirements of both Pub. L. 95-266, the Adoption Opportunities Act, and of Pub. L. 96-272.

The Department believes the regulation will protect the best interests of children and families served, carry out legislative requirements, address the diverse range of capabilities existing in the States, and lead to a marked reduction of the average number of children in foster care. It is estimated that the foster care caseload will decline five percent [5%] in FY81 compared to the average number of children in care in FY80. Improved permanency planning practices begun in FY81 will have their greatest impact on the average FY82 caseload which is expected to decline a further 15 percent from the average number of children in care in FY81. Continuing declines of approximately five percent [5%] per year are expected in FY 83 and FY 84 when the caseload size is expected to stabilize at approximately 360,000 or nearly 30 percent lower than the average number of children in care during FY 80.

If the cost maintaining children in substitute care continues to inflate at the same average rate that occurred between 1975 and 1978, cost savings per year by FY 84, due to the anticipated reduction in the number of children in out-of-home placement, would be over one billion dollars for the Nation's foster care system.

Based upon conditions established in Executive Order 12044 and the Secretary's implementing instructions, the Department has conducted a threshold study and has determined that a full regulatory analysis is not required. The Department has classified this regulation as a significant regulation under Executive Order 12044.

## C. Reporting and Recordkeeping Requirements

The proposed regulation contains reporting and recordkeeping requirements. The Department is required to

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[Cont. from Page 9]

submit to the Office of Management and Budget, for review, and approval, the following sections and/or forms pertaining to reporting and recordkeeping requirements:

—Inventory of Children in Foster Care [Sec. 1357.30 [a][3]].

—Statewide Information System [Sec. 1357.30[a][4]].

—Report on Voluntary Placements [Sec.1357.30[a][4][iv]].

—Federal Report on Child Welfare Services [Sec. 1357.20[c][10]].

The Department will submit these sections and forms to OMB.

The following sections and/or forms have been submitted to OMB for approval.

—IV-B Child Welfare Services State Plan Guidelines which contain an Annual Summary of Child Welfare Services and an Annual Budget Request [Section 1357.40[a][4] Approved by OMB for one year.

—Interim State Plan for title IV-E of the Social Security Act. The permanent IV-E State plan will be submitted following publication of the final regulations for Pub. L. 96-272.

IV-E Expenditures Reports [Section 1356.80]

IV-E Estimates of Expenditures [Section 1356.80]

#### D. Coordination

The Department believes that coordination of services in a time of scarce resources is vital to ensure the most appropriate and cost effective use of available resources. Pub. L. 96-272 is explicit in requiring that the title IV-E and title IV-B programs be coordinated with each other, with the title XX services program and with other Federal and State programs.

The proposed regulations facilitates coordination by mandating the common organizational location of the IV-E, IV-B and title XX programs within the single State Agency and by encouraging the development of common service programs to meet the plan requirements of title IV-E and title IV-B.

The proposed regulation also contains requirements that States assess the relevance and appropriateness of related programs and services. This assessment, along with supporting policies and procedures, must be provided to local agencies to facilitate inter-program referrals and to enable periodic assessments of the effectiveness of the State's system for coordinating services.

#### E. Immediate Implementation Activities

States may immediately apply for available funds under title IV-E provided they have a HDDS approved State Plan. At this time, title IV-E does not authorize the Secretary to make estimated payments in advance of State expenditures. Therefore, Federal funds will be available on a reimbursement basis only.

The Congress has passed a technical amendment to the Act to permit the making of estimated payments in advance of State expenditures. As of the date of publication of the proposed regulation, the President has not signed the technical amendment. For fiscal Year 1981, the Department will issue an interim title IV-E State Plan preprint to be used by the States to certify they have met the necessary requirements in the law. The present interim preprint is based solely on the provisions of the Act and not on this NPRM. Federal funds will be made available for FFP to reimburse States that have an approved interim IV-E State plan. A revised IV-E State Plan preprint will be made available to the States when the final regulation is issued.

F. Contents of Federal Register Regulation Package  
The Department is concurrently publishing several regulatory documents pertaining to the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). These documents are all published in this edition of the Federal Register. They include:

1. Notice of Proposed Rulemaking for Pub. L. 96-272. The NPRM contains new Parts 1355, 1356, and 1357 of the Code of Federal Regulations to implement the new IV-B program required by the amended Act. The NPRM also includes the provisions pertaining to State eligibility for additional payments [Section 427 of Pub. L. 96-272] which are also being published as an interim final rules in this issue of the Federal Register. The current regulation for the IV-B program is commingled with that of the IV-A services program for the territories in 45 CFR Part 1392. The proposed regulation for 45 CFR Parts 1355, 1356 and 1357 which is included in this document, will replace the provisions for IV-B in Part 1392.

The fiscal requirements for title IV-E are stated in section 1356.80. Included in this section are the conditions for the Federal financial participation in State payments

and administration and training expenditures, and foster care allotment limitations. A shorter comment period has been provided for this section because States may be faced with a limitation on foster care funds, therefore the basis for the allotment must be finalized. Further, the regulations governing administrative and training expenditures must be finalized in order to have cost allocation plans approved. Finally, the allotment limitations govern the possible transfer of title IV-E funds not used for foster care to title IV-B. These activities will all occur during the fiscal year, no later than halfway through the third quarter of fiscal year 1981. Also, the State legislatures must appropriate State and local funds to match the Federal funds. Advance knowledge will be needed in order to the correct amounts to be requested by the State agencies and approved by the State legislatures.

2. Notice of Proposed Rulemaking for amendments to Medicaid Provisions in 42 CFR Parts 431, 435 and 436. This regulation would amend the Medicaid Program to implement the provisions of Pub.L. 96-272 that apply to Title XIX. The proposed rule extends Medicaid eligibility to children for whom payments are made under the Title XIX. The proposed rule extends Medicaid eligibility to children for whom payments are made under the title IV-E Foster Care Maintenance Payments Program, and the two additional groups now eligible for IV-A foster care [children voluntarily placed in foster care and children in public institutions].

3. Interim Final Rule for Requirements for State Eligibility for Additional Payments, 45 CFR 1357.30. This regulation governs criteria that apply to several provisions in Pub. L. 272 whereby States may qualify to receive additional funds for child welfare services, to be partially reimbursed for costs of voluntary placement of children in foster care. These provisions are also being published as part of the proposed rule for Pub. L. 272 so that the reader will not have to refer to the Interim Final Rule provisions when reviewing the NPRM. Discussion of these provisions is contained in the Supplemental Information to the NPRM for Pub.L. 96-272. The Interim Final Rule contains a reproduction of the relevant sections of the NPRM requirements, but does not reiterate the discussions of these provisions set forth in the Supplemental Information section of the NPRM.

The Department finds that it is impracticable and contrary to the public interest to follow rulemaking procedures for this provision, and that good cause exists to publish this portion of the regulations as an interim final. These provisions are being published as an interim final rule because the Department recognizes that States must be notified of the standards the Secretary will apply in determining whether the requirements of Section 427 [a] and [b] of the Act have been met. States meeting these requirements are immediately eligible to receive federal funds for foster care maintenance payments for voluntarily-placed children. It is also important that States be notified of these standards so that they may make appropriate plans to meet the standards and qualify for the additional funds under Section 427[a] of the Act. Notwithstanding the omission of rulemaking proceedings, public comments will be accepted for seventy-five days following publication. Based on the comment received, the Department will make appropriate changes. The changes will not be retroactive.

#### II. Title IV-E—Federal Payments for Foster Care Maintenance and Adoption Assistance

The law creates a new program under title IV-E[iv-E] of the Social Security Act. The IV-E program closely parallels the foster care program currently provided under title IV-A, Aid to Families with Dependent Children program. However, the IV-E program also makes available Federal financial participation (FFP) in adoption assistance payments for "special needs" children. Federal matching funds for adoption assistance payments are not available under title IV-A.

The IV-E program will eventually replace the IV-A foster care program. Beginning Oct. 1, 1982, foster care funds will no longer be available under title IV-A. Until Sept. 30, 1982 a State may operate its foster care programs under either title IV-E or IV-A. If a State chooses to continue under the IV-A program, the State must meet the title IV-A requirements. Although the Federal agency responsibility for the administration of the title IV-A foster care program will be transferred to the Office of Human Development Services, the essential application and financial management procedures for title IV-A will not be altered.

For purposes of summarizing the IV-E provisions of Pub. L. 96-272, the law may be divided into the following general areas: State Plan Requirements; Foster

Care Maintenance Payment Program; Children Voluntarily Placed in Foster Care; and the Adoption Assistance Program.

State Plan Requirements: The State plan requirements contained in the amended Act [Sec. 471 of the Act [Sec. 471 of the Act (include many requirements applicable to AFDC State plans under title IV-A. Title IV-E State plans are also subject to additional administrative requirements. The plan would have to be administered by the same State agency that administers the Child Welfare State Grant Program under title IV-B of the Act. An independent audit would be required, at least once every three years, of the programs under titles IV-B and IV-E [Sec. 471[a][13] of the Act]. State plans must contain provisions to restrict the use of disclosure of information concerning individuals assisted under the State plan to purposes directly connected with the administration of the plan and other Federal programs. States are required to establish by law, by Oct. 1, 1982, for each fiscal year beginning with fiscal year 1984, goals as to the maximum number of IV-E children in the State who will remain in foster care after having been in care over 24 months [Sec. 471[a][14] of the Act].

The amended Act [Sec. 471 [a][16] of the Act] strengthens the requirements for case plans and case reviews for children in foster care. Effective Oct. 1, 1983, State plans must provide that reasonable efforts are made to prevent removal of the child from his or her home prior to foster care placement and that reasonable efforts are made to enable the child to return home [Sec. 471[a][15] of the Act]. Also effective Oct. 1, 1983, the agency must show that reasonable efforts had been made to prevent removal, in order for the child to receive title IV-E assistance payments [Sec. 472[a][1] of the Act].

Foster Care Maintenance Payment Program: Title IV-E authorizes FFP in assistance for all children currently eligible for AFDC-FC funds under title IV-A. Under title IV-A, Federal AFDC-FC payments are funds available for maintenance payments for a child otherwise eligible for AFDC payments, who is placed in a foster home or nonprofit private child care institution. Eligibility for FFP under title IV-E included children in public child care institutions which accommodate no more than 25 children. Children receiving foster care maintenance payments under title IV-E are deemed, for purposes of titles XIX and XX, to be dependent children as defined in title IV-A, and are, therefore, eligible for Medicaid as categorically needy and the title XX services [Sec. 472[d] of the Act].

In the past, Federal matching funds for AFDC-FC payments have been available to States on an open-ended, entitlement basis. Under Pub. L. 96-272 and under the amended title IV-A Foster Care program, there is a ceiling on foster care FFP funds for each fiscal year 1981 to 1984, if appropriations for title IV-B child welfare services equals or exceeds specified amounts: \$163.55M for fiscal year 1981, \$220M for fiscal year 1982, and \$266 M for each of fiscal years 1983 and 1984 [Sec. 474[b][1] and [2] of the Act].

Federal funds made available to a State under its IV-E foster care allotment ceiling, which are not used for maintenance payments, may be transferred for use for child welfare services under title IV-B [at a 75 percent matching rate], under certain conditions [Sec. 474[c] of the Act]. No State may increase its IV-B funds by a transfer of IV-E funds beyond certain specified amounts until it has implemented the protections required by Section 427 [a] and [b] of the Act. Cont. on Page 10



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Cont. from Page 9

Under the old law, States received Federal matching for AFDC payments [including AFDC-FC payments] on the basis of either the AFDC formula [used by only four State] or the Medicaid matching formula. All FFP for foster care maintenance payments and adoption assistance payments under the title IV-E program is determined using the Medicaid matching formula [Sec. 474[a][1] and ?2] of the Act].

**Children Voluntarily Placed in Foster Care:** In the past, Federal AFDC matching funds were not available for children placed in foster care without a judicial determination. Section 102 of Pub. L. 96-272 temporarily amends title IV-E to authorize FFP in expenditures made after Sept. 30, 1980 and before Oct. 1, 1983 [and under title IV-A, expenditures made after Sept. 30, 1979, and before Oct. 1, 1983] for foster care maintenance payments with respect to a child removed from home under a voluntary placement agreement. FFP is available only for expenditures made on behalf of voluntarily placed children after the State has implemented the protections and procedures mandated by Section 427[b] of the Act including a program of preplacement preventive services.

**Adoption Assistant Program:** Pub. L. 96-272 provides for FFP in State adoption assistance payments [Sec. 473 of the Act]. There was no such authority prior to Pub. L. 96-272. States participating in the title IV-E program are required to establish a program of adoption assistance payments [Sec. 471[a][1] of the Act].

Adoption assistance payments must be made under an adoption assistance agreement to parents who adopt an eligible child after the effective date of a State's approved title IV-E State plan. With an approved State plan, adoption assistance payments will also be available for assistance payments for adoptions made on or after June 17, 1980. FFP for these payments will not be retroactive but will be available from the effective date of the Plan. FFP for adoption assistance is available for a child with "special needs" who is eligible for SSI, AFDC, or foster care maintenance payments under agreement is required for each child.

Children receiving adoption assistance payments under title IV-E would be considered to be receiving AFDC and therefore, eligible for Medicaid [as categorically needy] and title XX services [Sec. 473[b] of the Act]. FFP for adoption assistance payments is permanent, on an open-ended entitlement basis, and is determined based on the Medicaid matching formula [Sec. 474[a][2] of the Act].

The following is a discussion of the significant provision of the proposed IV-E regulation.

## A. Case Review System

The proposed regulation, in Section 1356.40, requires that the State agency administering or supervising the administration of the IV-E State plan implement a case review system that will apply to each child receiving foster care maintenance payments. The case review system includes a case plan [Sec. 1356.40[d][2], periodic review of the child's status [Sec. 1356.40[d][3], and procedural safeguards to protect the rights of the child and the parent [Sec. 1356.40[d][6].

[1] Case Plan.—The law as implemented by the proposed regulation [Sec. 1356.40[d][2] requires that each child receiving foster care maintenance payments

have a case plan. The proposed regulation also requires that the State agency ensure that the child's case plan address the essential elements. These elements are: the type of facility in which each child is placed; the appropriateness of the placement and how it serves the best interests, as well as any special needs, of the child; service requirements and recommendations made by the court or administrative review panel and how the agency will comply with these requirements and recommendations; an assessment of the circumstances which necessitated placement and what condition in the child's own home need improvement before the child can be returned home, and what services will be provided to meet this objective; identification of goals to be achieved for the child while in placement, and what services will be provided to attain these goals; an estimated date when the child will be returned home or an alternative plan, including adoption will be undertaken. The plan must indicate the extent to which the child, if of appropriate age, and the parent[s] have been involved in the development of the case plan.

The elements state above are in the law either as part of the definitions of a case plan or the case review system. In addition to being minimal requirements of a case plan, they are considered to exemplify the best professional practice and be most essential to ensure that the best interests of the child and family are continually served, and that agencies adhere to the provisions of the law which are designed to protect those best interests. Further, these elements will emphasize a close working relationship among the agency, the child and the parent[s] by involving the parent[s] and courts further reduces the possibility of the child being "lost" in the foster care system, and will ensure that the services needed, will be provided in a timely fashion.

A written case plan is a dynamic document, changing periodically as the child's and family's situation and progress is reviewed. This regulation requires that the initial case plan covering all of the essential elements be developed within a 30-day period starting at the time the agency assumes responsibility for providing services or placing the child. This time span permits the agency and the family to access the situation, set goals, identify needed services, and estimate a point in time when reunification is to take place or an alternative plan undertaken.

The proposed regulation also requires documentation in the case record of agency actions, services provided, and decision-making. This record will provide accountability for the child's movement within the foster care system [Sec. 1356.40[d][2][iii]]. Essential information required by the Act draws heavily from the language found in the current regulation for AFDC-FC, 45 CFR 233.10. The recordkeeping required by the proposed regulation is similar to that required under title IV-A Foster Care; however, the proposed regulation provides more detailed guidance in the continuous updating and recording of the results of administrative actions or reviews affecting the child. Systematic and meaningful recording will contribute to agency accountability for the best interests of the child.

[2] Least Restrict Placement in Close Proximity to the Parents or Family Home—The law implemented by the proposed regulation requires that the case plan ensure that children in foster care be placed in the least restrictive [most family-like] setting available. In drafting the proposed regulations, the Department was particularly sensitive to the importance of keeping children in their own community and in the most family-like setting while still meeting the needs of the child [Sec. 1356.40[d][2][i]]. The draft regulation lists the order of consideration for foster care placements, starting with family care and proceeding to group arrangements and institutional care [Sec. 1356.40[d][2][i]]. In selecting the appropriate foster care setting for each child, agencies are required to explore the possibility of placement in the extended family of the child or with other relative[s] before exploring the resources of foster parents unknown to the child [Sec. 1356.40[d][2][i]]. The regulation underscores the need for sensitivity and attention to the child's CULTURAL, ETHNIC and RACIAL group in the selection of the placement.

The requirement of placement in close geographical proximity to the home of the child's parent[s] reinforces the emphasis of the legislation to keep children who in placement in close contact with their families. Research supports the conclusion that frequent visitation has a direct and positive effect in aiding the return of children to their homes. The placement must be consistent with the best interest and special needs of the child.

[3] Periodic Review and Composition of Administrative Review Board.—The law as implemented by the pro-

posed regulation requires that the State agency must conduct a case review no less frequently than once every six months for each child in foster care [Sec. 1356.40[d][3]. This review may be conducted by a court or administrative review panel [Sec. 1356.40[d][3]].

The administrative review panel, constituted by the state agency to meet the obligation to conduct administrative reviews every six months, must include at least one person who is not responsible for direct case management or delivery of services to the family or child being reviewed [Sec. 1356.40[d][4][i]]. The proposed regulation lists some of the possible sources for selecting this person[s] including the use of citizens qualified by experience, training or professional background [Sec. 1356.40[d][4][i]].

The administrative review is the point at which the principal parties to a foster care placement and in the child's life have the opportunity to discuss the case plan, progress made toward resolution of problems and achievement of goals, and to reach some understanding about the child's current and future status. It is of particular importance that the child be present and participate in the process, so that the child has immediate access to the information presented and can offer his or her own point of view, ask questions, and share in the planning for the future. Participation in this critical activity will relieve the anxiety of awaiting the decisions of others, increase the likelihood of a decision the child can understand, meets the child's unique and individual needs and allows for an experience in personal growth related to responsibility for his or her own life. Unless there are reasons of age or condition that would preclude attendance, the foster child should be a part of the administrative review.

The regulations define "children of an appropriate age" and "appropriate notice to the child" in order to provide guidelines within which States may determine when children should be involved in the events which vitally concern them. The definitions take into account the child's ability to understand the events without excessive anxiety or emotional stress [Sec. 1356.40[d][1][i] and [ii]].

This assumes that caseworkers will be prepared to make a judgment about the child's ability to understand the proceedings and to participate in the process. Workers should also be able to assist and support any child in preparation for and participation in the administrative review and other activities related to planning and placement.

As state previously, the administrative review panel must include at least one person who is not directly responsible for the case management of, or the delivery of services to the child and parent[s] who are subjects of the review [Sec. 1356.40[d][4][i]]. This individual, who is outside of the direct line of supervision may not be the worker, that worker's supervisor, or other levels of supervision or administration who could directly influence the lower levels of decisionmaking regarding the placement of the child. This provision does not exclude these agency personnel from being a part of the review panel. However, at least one other member who is not in that direct line of influence and who can provide a point of view independent of those in line authority must be a member of the review panel.

The proposed regulation requires that persons involved in the administrative review receive instruction in their role and the purposes of their review [Sec. 1356.40[d][4][ii]]. An administrative review panel may be comprised of a majority of persons who are not agency personnel. It is important that they understand their roles within the context of the purpose of the review, the agency's child welfare services system and the program objectives. An understanding and awareness of the rights and responsibilities of the public agency as well as the family, foster family, and child will help to ensure that their participation in the review process will promote the best interests of the child and family.

The State Agency has responsibility for establishing its own review system, according to its own geographic needs and resources available. The proposed regulation does not prescribe how a State is to do this, as logical limitations on the time of agency staff and volunteers will adequately determine the number of panels that must be appointed to review the State agency's cases.

[4] Dispositional Hearings.—The law requires that dispositional hearings be held by a court of competent jurisdiction or an administrative body appointed or approved by the court, no later than eighteen months after the original placement and periodically thereafter during the child's continuation in foster care. We are proposing that after the initial dispositional hearing, subsequent hearings be held every twelve months unless the court



Cont. from Page 10

orders a different time period [Sec. 1356.40 [d] [5] [i]]. A second dispositional hearing consequently would occur only if the child had been in care approximately 30 months, with subsequent hearings every 12 months thereafter. The Department believes that the need for protection increases rather than decreases as the child remains in foster care without a permanent home.

[5] Procedural Safeguards for the Child and Parents.—The law and the Department recognize the need for specific procedural safeguards for the child and parent [s]. The proposed regulation specifies procedural safeguards in a significant action or event undertaken by the agency which affects the child or the family. These safeguards require that the child and family be given advance notice of the action [Sec. 1356.40[d][6][ii][A], and an opportunity to present their opinions to the person responsible for the case management or delivery or services [Sec. 1356.40[d][6][ii][D]].

Procedural safeguards will apply to every child under title IV-E [Sec. 1356.40[d][6]] unless the agency can demonstrate that the child's health or well-being would be endangered by prior notification of the actions planned.

[B] Appeals, Fair Hearings, and Grievances. States are required to provide a system of appeals and fair hearings for title IV-E [Sec. 1356.30[g]] and title IV-B [Sec. 1357.20[c][11]]. Under this system applicants or recipients may appeal denial, reduction, or termination of services [s] or benefit [s]; or the failure of the State agency to act on a request for service[s] or benefit[s] with reasonable promptness.

The requirement for a system of fair hearings and appeals in written into the new regulation in essentially the same form as is currently in effect under the IV-A Foster Care program, the IV-B program and the title XX programs. The mechanism for fair hearings is already in place for these programs. Many children receive services from all of these programs, and all programs are operated by the same agency. For these reasons the Department believes that establishment of this common requirement will not create an additional burden on State agencies. Moreover, the requirement encourages coordination and consistency to protect the rights of the applicants for and recipients of services under these programs.

States must also provide a system for recipients to present grievances to the State agency concerning the operation of a service or benefit program [Sec. 1357[c][11]]. The current IV-B and IV-A regulations require a grievance system. The Department believes that such a system is necessary in order to allow recipient involvement in a form that will ensure efficient administration of the State plan. It is also a cost efficient requirement, in that an informal grievance system will serve to reduce the number of cases requiring a full scale hearing and appeal.

C. Program Manuals and Issuances. The availability of program manuals is necessary to assure recipients knowledgeable participation in the program and informed exercise of their fair hearings rights.

D. Safeguarding Information; Personnel Standards. Departmental provisions for safeguarding information currently in effect for title IV-A and XX programs are made applicable to the IV-E and IV-B programs under this regulation by referral to the existing regulations [Sec. 1356.30[f] and Sec. 1357[c][12]. The government-wide requirement with respect to use of merit personnel standards in 5 CFR Part 900 will apply to the title IV-E and IV-B programs.

E. Reasonable Efforts: Reunification Services and Preplacement Preventive Services Under Title IV-E.

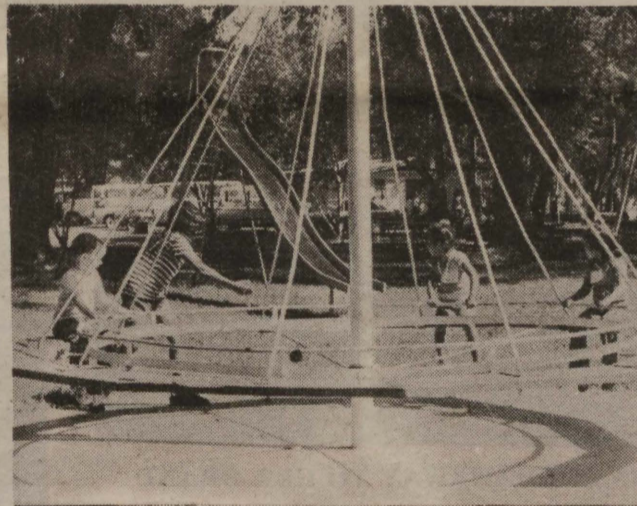
Section 471[a][15] of the Act requires that effective October 1, 1983, States make reasonable efforts in each case; [a] prior to placement in foster care, to prevent or eliminate the need for removal of the child from his or her home; and [b] make it possible for the child to return home. Reasonable effort is broadly defined as the State having services systems in place that are required in Sec. 1357.30 [a][5] and [b][3] and ensuring that they are appropriately applied in each case according to this proposed regulation and the State developed guidelines for workers.

States may meet the requirement under IV-E [Sec. 1356.40[e]] by meeting the respective requirements for reunification [1357.30[a][5]] and preplacement preventive services [Sec.1357.30[b][3]] provided under title IV-B. The reasonable efforts provision under IV-E cross references the relevant IV-B provisions. For a more complete

discussion of the relevant IV-B provisions, see Requirements for State Eligibility for Additional Payments under the IV-B section of this Supplemental Information.

To meet the reunification service requirement, a State must implement a program of services designed to reunify children with their families. That program of services must contain individual counseling for parent[s] and child [Sec. 1357.30[a][5][i][A]] and other reunification services that state identifies as necessary and appropriate [Sec.1357[a][5][i][B]]. To ensure that reasonable efforts are made to provide these services to each child or family in need, the proposed regulation requires that there be documentation in the case plan or efforts to reunify the child with his/her family, and statement as to why these efforts failed or were not required. The law and proposed regulation intend that services be readily accessible to each IV-E child and family in need.

The preplacement preventive services requirement in the proposed regulation parallels the reunification services requirement in that a program of essential preventive services must be implemented and operating. The program must contain the following services; twenty-four hour emergency caretaker and homemaker services; daycare; crisis counseling; individual and family counseling; emergency shelters; and access to emergency financial assistance and arrangements for the provision of temporary child care to provide respite to the family for a brief period [Sec.1357.30[b][3][i]]. In addition, the State must provide other services which it identifies as necessary and appropriate [Sec.1357.30[b][3][ii]]. To comply with the provisions in the law requiring that reasonable efforts be made in each case to prevent removal of the child from the family, the regulation requires that there must be documentation in the case plan of efforts to prevent the need for placement and a statement of why those efforts have failed. The required services must be available and accessible to all children and families in need, not just the IV-E child who by definition is already in foster care. Preventing services are intended to reach the child before he or she becomes a IV-E foster child, and therefore, must be available to all children in need.



The Department believes it is important to reiterate that reunification and preplacement services be available and readily accessible to all children and families in need. A reasonable effort must go beyond an explanation in the case plan that these services were not available. The caseworker must be given the tools essential to implementing the goals of the law and proposed regulation. The required services are essential tools and must be available for the caseworker to utilize.

The regulations also require that written guidelines be prepared by the State Agency to assist the caseworker in providing reunification and preplacement preventive services [Sec.1357.30[b][3][iii]]. These guidelines are intended to assist the worker to make appropriate case assessments, to determine appropriate services, and to ensure that decisions serve the best interests of the child and family.

F. Standards for Foster Homes and Institutions. Pub. L. 96-272 provides that the standards for child care institutions or foster family homes must be reasonably in accord with recommended standards of national organizations including standards related to admission policies, safety, sanitation, and protection of civil rights [Sections 471[a][10] and 2003[d][i][F] of the Act].

In writing the regulatory provision implementing the law the Department considered a wide range of options from preparing detailed, required Federal standards to regulating only the areas to be covered in standards, thus permit-

ting States to develop the specific requirements. The Department has adopted the latter approach by presenting the basic elements that each State must address in its standards for foster care homes and child care institutions [Sec. 1356.40[h]]. The detailed standards must be reasonably in accord with the recommended national standards. The required areas to be addressed in State standards must be present to adequately safeguard children in foster care and promote permanency planning. The Department believes that State must have flexibility in determining the specific requirements. The Department also considers that the proposed approach will protect the child and will not create extensive or burdensome new Federal requirements.

With regard to the use of standards developed by national organizations and already adhered to by many States. It is proposed that the State have flexibility to use one or all of the designated sets of standards as the basis for development of their own requirements [Sec.1356.40[h][2]]. The sets of standards addressed in this proposed regulation were developed by national organizations with experience and established credentials in the field of child welfare.

The national standards cover more areas than those addressed in this regulation. The selection of particular areas does not apply that other areas are not important in operating and providing services to children. The areas addressed were selected because they deal with matters that impact directly upon children and their families. This includes health and safety for the children, provision of basic care needed by all children and activities which are needed to carry out permanency planning.

G. Review of State Standards and Reimbursement. The law as implemented by this proposed regulation requires that States periodically review their standards for foster care homes and child care institutions [Sec. 1356.40[j]]. It also requires that States review the level of payment for foster care maintenance and adoption assistance to ensure their continuing appropriations [Sec.1356.40[k] and Sec. 1356.60[e]]. The Department is proposing that standards be reviewed every three years, and that level of payment for foster care maintenance and adoption assistance be reviewed every two years [Sec. 1356.40[j] and [k] and Sec. 1356.60[e]]. The Department considered making the review periods consistent, but recognized that costs change rapidly. Also, review of payment amounts should be a less complex process than review of the standards. Methodology for data gathering and analysis of cost variables affecting amounts can be standardized to provide the agency with valuable and current information. The Department proposed a longer cycle for standards review, believing that the three year cycle is appropriate to the difficulty of the task. States can develop their own method of review provided that public participation occurs in the review process.

H. Placement Pursuant to a Voluntary Agreement

The new provision in the Act for FFP in expenses for voluntary foster care placements is a significant from the title IV-A foster care program in which only placements resulting from judicial orders were considered eligible for FFP. For the first time, FFP can be claimed for foster care maintenance payments made on behalf of children placed under a voluntary placement agreement as long as specified requirements are met [Sec. 1356.50[a]]. Many of these requirements protect the rights of the child and the parent[s] when the child enters foster care under a voluntary agreement and with the assurance of appropriate services to the child and the family. The voluntary placement agreement must be a written binding agreement which states the legal status of the child, and the rights and obligations of the parent[s] or guardian[s], the child, and the agency while the child is in placement [sec. 1356.50[c][2]]. The voluntary placement agreement must be clearly explained to the parents and must be revocable upon the request of the parents or guardian[s], unless the State opposes the request for revocation and obtains a judicial determination that the child's best interests would not be served by returning the child home [Sec. 1356.50[f]]. The regulation requires that the parent[s] gives the State agency at least five work days notice of their intent to revoke the agreement. The State must either return the child or obtain a court order continuing the child in care within the five days. DHHS considered 24 hours and 72 hours as alternatives to the five day period. Both were rejected as being too brief a time for the agency to take the proper action to respond to the revocation. If, on the other hand, the child and family are easily prepared for the child's return, the return should proceed with all due speed. The Department requests comment on the period of advance notice.

Cont. on Page 12



On January 17 Indian names were given during the Memorial giveaway of Billy and Annie Sampson at the Wapato Longhouse. Bessie Sampson gives Granddaughter Jeanne Lewis her mother's name. Bessie introduces WA-SHUSH-TUN (JEANNE LEWIS).



WAR VETERAN RANDY BILL SON OF WOODROW & ESTHER BILL HOLDS MEMORIAL FREEING HIM-SELF OF WAR TIME MEMORIES SO HE CAN ONCE AGAIN PICK UP HIS GUN TO HUNT FOR FOOD FOR HIS FAMILY'



MARY PHILLIPS PASSES ON HER FATHER'S NAME SHAWAWAY TO HER GRAND-SON DELAND OLNEY.



AWARE OF CAMERA SARRAINE OWENS BECOMES BASHFUL - UNABLE TO SIT STILL. BABY IN CRADLEBOARD AUDIE YALLUP JR.



BESSIE SAMPSON GIVES GRANDSON GLEN LEWIS THE NAME KEE TUK CHEN HELD BY BESSIE'S FATHER.

# THE LOOK OF LIFE



Veteran's Dance lead by Orrin Miller, John Sampson and Randy Bill.



Johnny Sampson and sister Margaret Sampson Culps hold memorial give away honoring their parents Billy and Annie Sampson.



On December 19, 1980 a Memorial giveaway was held at the Wapato Longhouse in honor of "Schmelly", Stanley Smartlowit Jr., who passed on 9-18-80. The ceremony was put on by the Alice L. Wahpat, Sk'walxax and Family.



Sk'walxax (Ullah) is surrounded by her great grandchildren Stacey Sampson and Cecelia M. Blodgett. Stacey bought out the name of "Atilaa" given to her paternal grandmother, who is TamTni (Alice Joyce Nash).



TamTni and her son Issac Sampson gave away in order for Leon Sampson to bring out his grandfather's name Ahxall, and brother Darrell Sampson brings out Shmtlima (George Gibson). Not pictured, but also bringing out a name is Carnegie Williams, whose Indian Name is Sant s'.



Clockwise, Elmer "Fuddsey" Williams, Arthur Williams Sr., Marie Smartlowit Williams (daughter of Alice) and Alice Looney Wahpat who passed on to Lumtichem 12-20-80. On 12-19-80 she gave her name Sk'walxax to Janet Smartlowit.

# comment

Cont. from Page 13

## I. Conditions for Payment of Voluntary Placements

The use of the voluntary placement agreement reduces agency and court costs and offers maximum protection to the child and family. Federal financial participation in the costs for voluntary foster care placements are available when the basic title IV-E plan requirements are met and all the provisions contained in Sec. 426[b] of the Act are in place and operating in the State. These provisions are: completion of an inventory [Sec. 1357.30[a][3]; implementation and operation of Statewide information [Sec. 1357.30[a][4]; a case review system [Sec. 1356.40[d]; a reunification services program designed to return children in foster care to their families [Sec. 1357.30[a][5]; and preplacement preventive services designed to help children remain with their families [Sec. 1357.30[b][3] and [4]; No Federal payments will be available for a child care for more than 180 days without a determination by a court of competent jurisdiction to the effect that continued placement is in the child's best interest [Sec. 1356.50[b]. Pub. L. 96-272 [Sec. 102[a][1] provides FFP in allowable expenditures for voluntary placements made after Sept. 30, 1980, and before Oct. 1, 1983.

## J. Availability of Federal Funds to Reimburse Public Child Care Institution.

The law and this implementing regulations have broadened eligibility for FFP in foster care maintenance payments to include public child care institutions accommodating no more than 25 residents. However, the law excludes FFP for placements in detention facilities, forestry camps, training schools or other facilities operated primarily for the detention of children who are determined to be delinquents [sec. 1355.20[d)]; Group homes in the community which primarily serve delinquent youth fall within the restriction of the definition and are not eligible for FFP under this program.

## K. Establishment of Goals in State Law.

The law [Sec. 471[a][14] of the Act] as implemented by this proposed regulation, requires that States write specific foster care goals into State law for each fiscal year beginning with Fiscal Year 1983. The State law must be enacted on or before Oct. 1, 1982 [Sec. 1356.40[f]]. This provision is a State plan requirement which must be met if a State is to be eligible for IV-E payments [Sec. 1356.80[c]]. The Department encourages State agencies to begin working with their State legislatures immediately and not await publication of the final regulations to make preparations to comply with this provision.

## I. Adoption Assistant Program.

For the first time, Federal financial participation is available to provide adoption assistance for children with "special needs" [Sec. 1356.60]. Previously, either the State or the adoptive parents were responsible financially for the care of the child. The severe costs of providing proper care for children with special needs has been a significant hindrance to the adoption of thousands of AFDC-foster care children.

[1] Initiation of Adoption Assistance Payments.—Congress specified that adoption assistance payments were to begin at the time of adoption. However, if an interlocutory decree granting the prospective adoptive parent[s] guardianship or legal custody pending a final decree of adoption is issued, payments may begin at that time [Sec. 1356.60[a][3]]. The intent of Congress was to ensure that these children have the additional procedural safeguards provided by a judicial determination. The option of having assistance begin at placement for adoption was rejected as contrary to Congress' desire to have judicial involvement before initiating assistance payments.

[2] Periodic Recertification of Adoption Assistance Payment. — Pub. L. 96-272 specifies that the amount of the adoption assistance payments may be readjusted periodically by the State with the concurrence of the adopting parent[s] and the parents shall keep the State informed of any change in circumstances.

The proposed regulation requires an annual recertification of the Adoption Assistance agreement including the amount of the payment to families that have adopted children with special needs [Sec. 1356.60[f]]. The annual recertification is adapted from the Model State Subsidized Adoption Act and Regulation published by the Department in 1976. The Model Act has been implemented by Several States with adoption subsidy programs.



[3] Interstate Continuance of the Adoption Assistance Agreement.—Adoption assistance agreements must contain a provision protecting the interests of the child when the adoptive family moves to another State [Sec. 1356.60[b][3][ix]]. Effective Oct. 1983, the adoption assistance agreement shall remain in effect regardless of the State of residence of the adoptive parent[s] and the child move to another State [Sec. 1356.60[b][4]].

The Department has concluded that the adoptive parent[s] is entitled to know the parameters of coverage under agreements executed prior to Oct. 1, 1983 [Sec. 1356.60[b][3]]. Therefore, the regulation has been drafted to require the State to include, in agreements executed prior to Oct. 1, 1983, a clear statement on whether the agreement and attendant responsibilities remain in force if the adoptive parent[s] change their State of residence [Sec. 1356.60[d][3]]. While recognizing the Oct. 1, 1983 effective date imposed by Sec. 476 [b][4][A] of the Act, the Department believes that the pre-1983 informational requirement in the regulation will enable an adoptive parent[s] to make necessary and informed decisions about the child and themselves.

[4] Eligibility for Title XX and Title XIX Services.—The Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96-272, mandates title XIX and title XX eligibility for children for whom payments are made under the Foster Care Maintenance Payments Program of the Adoption Assistance Program. These children are deemed to be recipients of Aid to Families with Dependent Children (AFDC) under title IV-A or IV-E of the Social Security Act [Section 472[d] and 473[b] of Pub. L. 96-272] for purposes of title XIX and title XX of the Act.

Both Medicaid [title XX of the Act] and title XX are State-administered programs, jointly financed by the Federal and State governments, that provide medical assistance and social services to certain groups of low-income persons. AFDC recipients are automatically eligible for both programs by virtue of their AFDC status. By providing for "deemed" AFDC status, the new legislation provides mandatory title XIX and title XX coverage for children receiving payments under the States' IV-E program.

The Health Care Financing Administration's proposed regulation amendments accompanying this NPRM amends the title XIX program to require the State making the foster care maintenance payments or the adoption assistance payments to provide Medicaid coverage. This consistent with the longstanding requirement that the State providing cash assistance that triggers Medicaid eligibility is also fiscally responsible for providing Medicaid for the individuals involved.

Usually, when a recipient of a cash assistance program that is linked to Medicaid moves to another State, the individual loses eligibility for that program and Medicaid in the originating state, and is covered for both program by the new State if he or she meets that State's requirements. However, as explained earlier, for purposes of title IV-E, the Department has determined that, when a family moves to another State, eligibility and responsibility for adoption assistance payments will remain with the originating State [Sec. 1356.40[c] and 1356.60[g]]. Therefore, eligibility and responsibility for providing Medicaid coverage will remain with the originating State.

This is a continuation and extension of the Department's policy that has been applied to the AFDC Foster Care program previously authorized under title IV-A of the Act. That program required that the originating State continue responsibility for AFDC foster care and Medicaid when a foster care placement is made-out-of-State.

It is also consistent with the general intent of the title XIX statute and the requirement noted above that ties State responsibility for Medicaid to State responsibility for cash assistance.

The proposed regulation provides that children for whom adoption assistance payments are made will be deemed eligible in the State of residence and that State will be responsible for the provision of title XX services if these services are requested and needed. This provision is consistent with current program provisions in title XX.

Because eligibility for title XIX and title XX are triggered by an actual cash payment under the adoption assistance program, however minimal, States should be sure that at least a minimal payment is made to families who particularly need title XIX coverage but not necessarily other assistance or services. The Department welcomes comment on this proposed regulation.

[5] Active Promotion of Adoption Assistance Program.—The Department recognizes the need to promote and publicize the availability of adoption assistance so that prospective adoptive parents, including current foster families, will be aware that this program exists. This will enable a larger number of potential adoptive parents to be informed about the program and to consider adopting children with special needs. The dissemination of information is necessary to the success of the entire adoption assistance effort which rests on willingness of the citizenry to become involved in the program. Active promotion also provides the opportunity to share this information with the general public so that an understanding of the purpose and existence of the adoption assistance program is more widespread [Sec. 1356.60[h]].

## M. Training Under Title IV-E.

The implementation of the title IV-E program requires the use of a wide range of skills on the part of the child welfare worker providing services to children, parents, foster parents, and potential adoptive parents. To ensure the availability of essential skills, staff training must be an important element of the State agency's management plan. Federal financial participation is available at the 75 percent rate for training expenditures incurred under title IV-E [Sec. 1356.80[b]]. The regulation currently governing staff development expenditures under title IV-A, 45 CFR.235.60-66, is being applied to title IV-E. That regulation appears to be most advantageous to the program. However, State agencies should give careful consideration, in their planning, to the Assessment of training needs and development of training plans in those programs which are to be coordinated with title IV-E so that resources for staff development can be combined beneficially. This will aid in achieving optimal use of those resources. The regulation includes training costs for foster parents, adoptive parents and child care institution staff related to providing foster care [Sec. 1356.80[b]]. Title IV-E of the Act establishes a continuing relationship between adoptive parent[s] and the agency to provide continued support, as needed, to the adoptive parent[s] in the care of the child. This provision is interpreted to include training for this purpose.

## N. Withholding of IV-E Funds for Non-Compliance.

The basis and procedure by which the Department, would if necessary withhold funds based on non-compliance are stated in the proposed regulation [Sec. 1356.75]. The proposed regulation adopts present Department wide procedures [45 CFR 213] for handling this type of action. However, it is anticipated that the Department will not use this authority unless and until other less formal methods of ensuring compliance with the approved title IV-E State plan requirements have been exhausted.

## III Fiscal requirements.

Federal financial participation is available for state expenditures for foster care maintenance payments and adoption assistance payments at the Federal medical assistance percentage rate as promulgated by the Secretary in accordance with Section 1905[b] of the Act. In addition, the regulations provides for an FFP rate of 75 percent for State training expenditures and 50 percent for other expenditures needed for proper and efficient administration of the State plan [Sec. 1356.80].

Training expenditures may include both in-service training and training at educational institutions, both long-term and short-term, through grants to the institution or direct financial assistance to trainees. Reimbursement is available for training persons employed, about to be employed foster parents or other child care staff providing foster care services to IV-E children [Sec. 1356.80].

The costs of conducting the activities essential to fulfilling the plan requirements under Section 471 of the Act [Sec. 1356.80] are considered as necessary for the proper and efficient administration of the State plan under title IV-E, except for the nonrecurring costs of adoption and

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the cost of complying with the reporting requirements which are deemed to be child welfare services costs and may not be reimbursed under this part. Furthermore, the costs of direct services to children, parents or foster parents to ameliorate personal problems and which go beyond the activities specified in the regulation are to be funded from other programs. The regulation delineates such social services costs from those required to carry out the provisions under title IV-E. Apart from these exceptions it is recognized that the activities prescribed in the law and the protections provided under Section 427 may overlap. The regulation, therefore, provides flexibility to the States to choose which program to charge these costs and the method used for charging and claiming costs [Sec. 1356.80[c] and [d]]. Because of this flexibility it is important that there be assurances and controls to prevent duplicate charges for the same activities and costs and to allocate these costs to the appropriate programs as outlines in the State cost allocation plan.

#### A. Allotments.

There are a number of provisions in the Amendments that emphasize the primary goal of helping children remain with their families when problems arise. One of these provisions is the limitation, in the form of State allotments, on the Federal funds that may be paid on behalf of foster children under AFDC-FC programs. This provision is directed toward limiting the inappropriate use of foster care and it will apply equally to title IV-A and IV-E foster care. We are planning to issue regulations to state this for title IV-A-Foster Care. The allotment represent the maximum amount of FFP available in foster care. The allotment represents the maximum amount of FFP available in foster care. The allotments are mandatory only if the title IV-B appropriation reaches certain "trigger" levels specified in the Act. However, even if the appropriations under IV-B do not reach the specified levels, and the trigger is not activated, the allotment must be computed. Funds allotted but not used for title IV-A or IV-E foster care may be transferred to title IV-B and used for child welfare services, if States meet certain other conditions, to protect children and their families, as specified in Section 1356.80[e][6]. In summary, then, the allotments must be computed and will serve as a planning aid for States and the District of Columbia. [The Territories have a separate ceiling under Section 1108[a] of the Act.]

The law specifies three methods for the determination of the amount of allotment.

Each State is entitled to the higher of the amount of calculated under paragraphs [1] or [2] of Section 1356.80[e]. Some States may be entitled to choose the amount calculated [3] of Section 1356.80[e]. The State need not select the same option each year.

The first method uses the 1978 expenditures for AFDC-FC as a base amount and provides for a percentage increase [or decrease] based on the changes in the Consumer Price Index for each fiscal year [1.3332 percent for FY 1981 [Sec. 1356.80[e]]];

The base amount is composed of FFP in three types of State expenditures computed for fiscal year 1978 and added together: maintenance payments, administrative costs and training costs.

Maintenance payments: The regulation describes the payments as limited to two categories. The first is allowable payments matched by Federal funds that have been claimed or may be claimed and paid, which are submitted to HHS within the time limits specified in Section 306 of Pub. L. 96-272. The Act uses the word "payable" rather than "paid". However, it is clear that Congress intended to allow only actual payments or timely claims that may be paid if funds are available, with one exception, which is discussed below.

The clear purpose of the first allotment, for which the base amount is the foundation, is to limit FFP to the Fiscal Year 1978 payments but allow an annual increase [ten percent per year, compounded] for inflation [Sec. 1356.80[e]].

The exception mentioned above and the second category of maintenance payments included in the regulation is the Youakim Children. On Feb. 22, 1979, the Supreme Court of the U.S. in *Miller vs. Youakim* 440 S. 125 (1979), ruled that children whose foster care was provided by relatives who met the requirements of Section 408 of the Act [for AFDC-FC] were entitled to be paid at the FC rate rather than the AFDC rate, which is generally lower. The ruling was not applied retroactively [except in the case of the individuals bringing the lawsuit]. Therefore, the thirteen States that had been paying AFDC rates to relatives were not required to make

increased retroactive payments to recipients eligible for AFDC-FC during Fiscal Year 1978. However, those States have been required to make foster care payments to eligible recipients after the case was decided. In effect then, the court required thirteen States to increase their AFDC-FC payment to one class of recipients. Congress wanted to make the ceiling fair to those States and to avoid a potentially costly burden to those States. Therefore, the proposed regulation [Sec. 1356.80[e]] specifically includes the Youakim Children, where a State by law, regulations or policy did not make foster care payments in FY 1978. The expenditures that would have been made on their behalf are included in the base amount for Fiscal Year 1978, even though they were not paid at the AFDC-FC rate in FY 1978.

Section 474[b][4][C] of the Act includes administrative and training expenditures in the base amount: "administrative expenditures attributable to the provision of such aid [payments under Section 108] as determined by the Secretary." We have provided three procedures for attributing those administrative expenditures, for inclusion in the base amount.

First, any State which can document actual administrative expenditures for FY 1978 AFDC-Foster Care may report them to the Department for inclusion in the base amount.

Second, in the regulation we have adopted a formula for administrative expenditures based on actual costs per AFDC case, and the number of Foster Care cases for whom payments were made, as described in the maintenance payments portion of the allotment. In order to allow for the changed nature of the foster care program, from a payments program to a goal-oriented program to return children home, we have specified the functions which may be attributed to administrative expenditures for the cases included in the maintenance payments section even if not claimed or paid under title IV-A. Those functions are the costs of conducting eligibility determination and redetermination, quality control, fair hearings, agency activities related to judicial determination, placement, case review, case management, case supervision, rate-setting, recruitment of foster care home and institutions, licensing and a proportionate share of general related agency overhead.

The third procedure available to States is to provide the Department with a report specifying the Department with a report specifying the administrative costs associated with the payments for foster care maintenance for the functions specified above for a period of at least three calendar months of fiscal year 1981. That amount is reduced for inflation since FY 1978 [using the Implicit Price Deflator for State and Local Government Purchases calculated by the Department of Commerce for each State]. The amount is adjusted for an annual amount and reduced by 50 percent [the FFP rate in administrative expenditures]. Reports must be submitted no later than 30 days after the end of fiscal year 1981. In effect, this method permits States to use actual FY 1981 costs, which may be higher for AFDC foster care than for AFDC, as a substitution for the second procedure. We invite comment on all three procedures.

For the attributable training expenditures as a part of the base amount [fiscal year 1978], the same explanation generally holds true except that the third procedure is not available because of the small amount of funds that would be included. No actual fiscal year AFDC-FC training claims have been submitted [or were required to be submitted] to the Department separate from other AFDC training claims, but States may now send that information [Sec. 1356.80[e][1][iii][c]]. Alternatively, the Secretary has determined that attributable training expenditures for each State should be: the ratio of AFDC-Foster Care to all AFDC cases for FY 1978, multiplied by the total AFDC training expenditures for FY 1978, multiplied by the Federal share of these expenditures [75 percent]. All data used are State-by-State data.



We have also specified in the regulation that the actual claims for maintenance payments must meet the following conditions: they must be allowable, supported by documentation and submitted under the time constraints of Section 306 of Pub. L. 96-272. Reports must also be for allowable costs and supported by documentation. They must be submitted to the appropriate ACYF regional office no later than 45 days after the end of the second quarter of Fiscal Year 1981, except for the reports in the third procedure for attributing administrative expenditures.

The regulations [at Section 1356.80[e][1][iii][E] allow the inclusion of claims or reports in which the State and the Secretary have a dispute to remain as a part of the computed base amount until the Department has resolved the dispute by final administrative action.

For the second method of determining the State's allotment, the State's allotment is \$100 million times a percentage equal to the State's population under 18 compared to the U.S. population under 18 [fifty States and District of Columbia][Sec. 1356.80[e][2]].

For the third method of determining the State's allotment [Sec. 1356.80[f][3]], the base amount determined under the first method is used. If for a fiscal year, the average monthly number of children in the State's foster care program under IV-E in the State is less than the comparable national average both in FY 78 and in each of Fiscal Years 1982-84 the State's base amount [FY 78] is increased by the percentage of AFDC-FC increase [in the average monthly number of children] up to a maximum [ten percent per year compounded over FY 78, beginning with 33.1 percent for FY 81]. The child count for these calculations includes the same Youakim children discussed under the base amount maintenance payments.

The Commissioner, as the Secretary's designee, will publish interim allotments established under the third method within six months after the beginning of the fiscal year, and final allotments not later than nine months after the end of that same fiscal year [Sec. 1356.80[f][3][vi]].

The State must make a choice and notify the Commissioner of the selected option no later than 45 days of the end of second quarter of the fiscal year. This choice is necessary in order to insure States that payments can be made to them in a timely fashion for AFDC-FC and for IV-B.

#### B. Transfer of Funds.

Section 474[c] of the Act permits States to transfer unexpended funds within a State's foster care allotment under title IV-E to title IV-B, provided the State's allotment was determined on the basis of either the first or second method described in paragraphs [1] or [2] of Section 1356.80[f]. To transfer an amount of which added to the title IV-B allotment would exceed the share the State would have been entitled to had the IV-B appropriation exceeded \$141 million, the State must comply with the protections of Section 427[a] of the Act [Sec. 1357.30[a]], concerning inventory, a case review system, an information system and services to return children to their families or have them adopted. If the title IV-B appropriation for two earlier consecutive years has equalled \$266 million, the State must meet the requirements of Section 1357.30[b] in order to transfer any funds to IV-B.

Even if the IV-B appropriations do not reach the "trigger" levels specified in Section 474[b] and no limitations is in effect on the Foster Care allotments, A State may transfer unused funds under the allotment amount to title IV-B for child welfare services. States must meet the same requirements as when the limitations are in place. In addition, the amount that can be transferred is limited by the difference between the funds received under title IV-B [Section 420] and the amount of the IV-B allotment that would have been available had the IV-B appropriation been equal to or greater than the amount necessary to make the foster care allotments mandatory.

Funds transferred to title IV-B must be obligated for expenditures in title IV-B within the same fiscal year for which they were first made available. Requests for transfer of the funds must be made 45 days before the end of the third quarter of the fiscal year.

#### IV. Title IV-B—Child Welfare Services.

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. In 1968 Congress transferred the program to title IV, Part B of the Act [Section 420-425 of the Act]. Historically, title IV-B has provided Federal grants to establish, extend and strengthen child welfare services in the States. Grants are made to State agencies on the basis of a plan

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developed jointly by the ACYF Children's Bureau and the State agency. The amended Act reaffirms this partnership between the Federal and State governments for the provision of child welfare services by the State.

Under title IV-B, formula grants are allocated to the States for providing and improving child welfare services to children and their families in need of services, without regard to income [Sec. 1357.20[b]].

In recent years State have used approximately 70-80 percent of IV-B funds for foster care maintenance payments. Other services including adoption, day care and protective services to be abused and neglected children have also been provided with the IV-B funds.

## A. Availability of Services in All Political Subdivisions.

The existing requirement that child welfare services be available in all political subdivisions of the State by July 1, 1975 has been replaced by the requirement that the State Plan "contain a description of the steps which the State will take to provide child welfare services and to make progress in: [Sec. 1357.20[c][4]]:

- [a] covering additional political subdivisions;
- [b] reaching additional children in need of services; and
- [c] expanding and strengthening the range of existing services and developing new types of services"

The emphasis in this proposed regulation is to continue to make progress toward the ultimate goal of making comprehensive, quality child welfare services available on a Statewide basis.

## B. The Single State Agency and Single Organizational Unit.

The proposed regulation [Sec. 1357.20] paraphrase Pub. L. 96-272 [Sec. 422[b][1]] and specifies responsibility of the unit chief for the policy development and program operation of the title IV-B Child Welfare Service Program. The change embodies in the proposed regulation is not significantly different from the current requirement.

## C. Description of Services.

The proposed regulation [Sec. 1357.20] requires a description of all child welfare services to be provided, the geographic areas in which they are available and what is being done to expand, improve and strengthen those services or provide new ones. As part of ensuring a rational planning and priority setting process, the States are asked to describe the basis for determining services to be added or expanded and how these new services are related to extending the services and reaching additional children in need of services. These conditions replace the former "Statewide" provisions contained in the old regulation.

## D. Description of the Staff Development and Training Plan.

The proposed regulation [Sec. 1357.20[c][5]] requires that the State agency staff development and training plan include, at a minimum, the manner of allocating resources, assessing the need for training, procedures for evaluation of plan implementation and the agency's plan for use of paraprofessionals and volunteers. These activities have been identified as necessary to a rational and well thought out plan. The State agency's staff development and training plan will supplement the training plan required by title XX submitted to the Regional Administrator of the Office of Human Development Services. The State agency's entire IV-B staff development and training plan need not be submitted to ACYF, but it must be available for review by Federal staff. Only description required by the Long Range Strategy must be submitted [Sec. 1357.40[a][2][ii][C]].

## E. Advisory Committee.

The current IV-B requirement mandating advisory committees [45 CFR 1392.4] has been in effect for many years. Nothing in the Act amended by Pub. L. 96-272 is in direct conflict with the requirement. The statutory basis remain the same under the statute as amended by Pub. L. 96-272. Pursuant to the Secretary's responsibilities for joint development, and his/her general rule-making authority under Section 1102 of the Act, public participation has been required in the development of the child welfare services plan [Sec. 1357.20[c][8]].

The Department has a continuing and strong commitment to involve the public in the child welfare services program. Most States have established these committees. The viability and success of the Federal regulation development and implementation depend on the input, involvement and investment of the States and other public and private

constituencies as demonstrated in the meetings, publication, comment period and regional hearings. Similar involvement must also occur at the state and local levels. These Committees will form the partnership and assure the resources for the states to accomplish the Congressional intent of Pub. L. 96-272.

Through involvement of public and private agencies and citizens, the mandates of this new law can be fully realized at the local, service delivery and community levels.

## F. General Requirements Common to Social Service Programs.

Fair hearings, safeguarding information, access to program manuals and issuances, and adherence to the merit system of personnel administration are also required in the proposed regulation. The changes in these provisions do not represent a substantive departure from present policy [Sec. 1357.20[c]]. For a full discussion of these provisions see Section II, B. of the Supplemental Information.

## G. Requirements for State Eligibility for Additional Payments.

To help finance the services required and to encourage in the foster care system, Congress provided in Pub. L. 96-272 [Sec. 427 of the Act] that in any year in which the title IV-B appropriation exceeded \$141 M, a State can not receive its share of title IV-B funds in excess of that \$141 M unless it has implemented the following procedures and protections.

1. Conduct an inventory of all children who have been in foster care more than six months, make determinations about the necessity and appropriateness of their placements, and provide a report to the Secretary [Sec. 1357.30[a][3]];
2. Have a Statewide information system capable of tracking every child who is in foster care or who had received care within the preceding 12 months [Sec. 1357.30[a][4]];
3. Have a case review system for each foster child under the State's supervision [Sec. 1356.40[d]]; and
4. Have a service program designed to return children to their own home or to achieve another permanent placement at the earliest possible time [Sec. 1357.40[A][5]].

1. Inventory.—The Inventory [Sec. 1357.30[a][3]] is a key element in requiring States to help reunify children in foster care with their parents. It impels States to establish basic information about the status of each child in foster care and to develop a plan for that child in foster care based on a case review. The Inventory required in the Act, as implemented by the proposed regulation, serves to establish an accounting of children in foster care so that their status may be reviewed and actions taken to facilitate their return home as quickly as possible. For children who cannot be returned home, alternative services leading to permanence for the child must then become the goal.

While the proposed regulation [Sec. 1357.30[a][3]] specifies the content of the Inventory, the States are given latitude to determine the procedures. The Inventory should be perceived as a source of initial data on which to construct the case review program and to provide baseline data for the Statewide information system. The determination of whether a State has completed the inventory is based upon a one-time report with specified content which summarizes the respective data [Sec. 1357.30[a][3][v]]. This report provides an accounting of children in foster care and an indication that the inventory has been completed.

2. Statewide Information System.—The Statewide information system [Sec. 1357.30[a][4]] is critical to the successful management of a child welfare program. The regulation which applies to the information system is framed to leave the States maximum flexibility in the design, configuration and technical features of the State system's hardware and software. In addition, flexibility in systems design is encouraged to accommodate the information required to satisfy the law. This includes essential information requirements [Sec. 1357.30[a][4][oo][c] and [D]], State and local agency information needs for monitoring and evaluation [Sec. 1357.20[c][10]], and audit functions [Sec. 1357.20[c][9]]. The information requirements are also intended to assist the States in complying with the reporting requirements of joint planning, the IV-B and IV-E State plans, fiscal documents and records, and the Federal Child Welfare Reporting System. Included in the System is the intended use of the Child Welfare Dictionary of Common Usage which will establish nationwide definitions of important terms and elements. The System including the "Dictionary", is currently being field tested in eight States, California, Florida, Maryland, Ohio, Vermont, North Dakota, Mississippi and Oklahoma. The System's documentation carefully specified the data elements, definitions and reporting format that the Department will

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need, and proposes to require to meet the Congressional reporting mandates of Sections 471[a][6], 476 of the Act and Section 102[e] of Pub. L. 96-272. While the field test is underway, the Department will concurrently request OMB clearance for nationwide implementation of the System, including the Dictionary.

The requirements for information evolving from the Pub. L. 96-272 are consistent with the data that the States use in the daily operation of their case tracking and management systems. The Department has been sensitive to State reporting requirements and the burden which they impose.

In specifying the national reporting and evaluation requirements, only data elements essential to Federal planning, Congressional reporting and administrative functions have been included in order to minimize the burden.

3. Case Review System.—The case review system is discussed in the IV-E portion of this Supplementary Information.

4. Program of Reunification Services.—Pub. L. 96-272 [Sec. 427[a][2][C]] requires that States implement and operate a service program to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship. To meet the reunification service requirement in the law, the regulation requires States to implement a program of services designed to unify children with their families. That program of services must contain day care services, homemaker or caretaker services, family or individual counseling for parent[s] and child [Sec. 1357.30[a][5][i][B]].

The Department has required only those services it considers essential to accomplish the goals of the law—to reunite children and families. The three mandated reunification services are basic components of a support system to the family and child, following separation from and preparatory to return of the home. The specific focus and context of the services will be influenced by the circumstances under which the child was removed from the home. The services should represent the remedial response to the problems identified in the case plan.

The selection of the three mandated reunification services was based on the findings of the National Study of Social Services to Children and Their Families [Shyne and Schroeder, 1978], which listed five of the primary reasons for children and families receiving social services, including foster care: neglect of the child, unwillingness to care for the child, abandonment, emotional problems of the parent, and abuse of the child. Homemaker and Caretaker, Day Care, and Individual and Family Counseling are the services most likely to effect change in the home situation and lead to the return home of the child.

Homemaker services are those services which provide a qualified person to assist families with children in home maintenance and management in order to strengthen, support, supplement and restore parental capacity to care for the children. An emergency caretaker provides care and supervision of a child in his or her own home at times when supervision is lacking because parent[s] are either temporarily absent or temporarily incapacitated. Day Care is the means for providing protection, care, and developmental experiences for children whose parents need help in making child care arrangements for reasons other than employment, education or training and for children with special needs [e.g., disadvantaged, mentally retarded or emotionally disturbed children]. Individual and family counseling provide help in the identification and resolution of problems related to personal functioning, social interaction, family stability and environmental factors. As described, the services are the core of agency support of families which allow reunification while reducing the risk of neglect, abuse, etc. and reinforcing the family's own strengths.

Cont. on Page 17



The Department considered requiring the provision of other services in addition to these services. The Department decided to make the provision of additional services optional [Sec. 1357.30[a][5][i][B]] to give a State flexibility in tailoring its child welfare services program to the precise needs of its local constituencies under title IV-B. The States must have a program of essential services available for children in need. The Department does not intend to require that a program containing these core services be established in each political subdivision. The test of compliance with this provision is that the required services are available and readily accessible to each child and family in need of these services.

Under title IV-E, the law requires that by Oct. 1, 1983, the States make placement or eliminate the need for placement of the child and to make it possible for the child to return to his home [Sec. 471[a][15] of the Act]. This provision emphasizes the need for appropriate services to reach the child and family. This approach has been adopted under title IV-B. While requiring the establishment of a program of essential services, the Department is ultimately concerned that the relevant services reach the child and family in need. States can meet the requirement by ensuring that essential services are available and readily accessible to each child and family in need.

The proposed regulations require that written guidelines be prepared to assist the caseworker in providing the reunification and preplacement preventive services [Sec. 1357.30[a][5][i][C] and [b][3][iii]]. These guidelines are intended to assist the worker to make appropriate case assessment, to determine appropriate service, and to assure that decisions serve the best interest of the child and family.

The proposed regulation also requires States to have a program of services designed to facilitate adoption or legal guardianship [Sec. 1357.30[a][5][ii]]. The Adoption services provision is structured similarly to the reunification services program in that the State must implement and operate a program of required essential services comprised of legal services and adoption services [Sec. 1357.30[a][5][ii][A] and [B]]. In addition, the State program must contain other activities identified by the Agency as necessary and appropriate for permanent placement through adoption [Sec. 1357.30[a][5][ii][c]]. The State must also provide written guidelines to assist the caseworker in developing and implementing an appropriate plan for adoptive placement of the child [Sec. 1356.30[a][5][ii][D]]. The required services must be available to each child and family in need of these services.

In addition, Section 427[b] of the Act requires that if title IV-B funds are appropriated at the maximum of \$266 million for two consecutive years, the title IV-B allocation for that State would be reduced to its share of \$56.5 million, unless the State has implemented the required preplacement preventive services program in addition to the above described procedures and protections. The preplacement preventive services program [Sec. 1357.30[b][3]] must contain the following essential services: twenty-four hour emergency caretaker and homemaker services; day care; crisis counseling; individual and family counseling; emergency shelters; procedures and arrangements for provision of temporary care to provide respite to the family for a brief period [Sec. 1357.30[b][3][i]]. In addition, the State must provide other services which it identifies as necessary and appropriate [Sec. 1357.30[b][4]]. The required services must be available and accessible to all children and families in need.



The proposed regulation requires that there must be documentation in the case plan of efforts to prevent the need for removal from the home and a statement of why such efforts have failed [Sec. 1357.30[b][4]]. The required services must be available and accessible to all children and families in need.

Based on information available, the Department believes that the establishment of a program of preplacement preventive services is both cost-effective and essential to achieving the goals of the law. State agencies currently operate programs to prevent removal from the home similar to those required in the regulation. Between 1961 and 1977 the number of children in placement increased from 181,000 to 530,000 even though the total number of children decreased by one million over the same period. Permanency planning programs regularly find about one-third of the children in long term foster care can, in fact, be returned to their own parent[s] usually after some services are provided to the family. These findings strongly suggest that earlier preplacement services to the families were not provided or were seriously deficient.

In a related effort, Davidson County Social Services, Nashville, Tennessee found that a system of Comprehensive Emergency Services operating 24 hours a day reduced the number of children placed in the various types of substitute care by almost 50 percent over a three year period. The Department has incorporated most of the elements of that system in this proposed regulation. There were also decreases in the number of repeat cases of child abuse and neglect, and in the reporting of delinquency among the older children. More recent prevention projects also report various degrees of success. All programs report that their efforts are cost-effective.

The proposed regulation also requires that written guidelines be prepared to assist the caseworker in providing the preplacement preventive services [Sec. 1357.30[b][4][iv]]. These guidelines are intended to assist the worker to make appropriate case assessments, to determine appropriate services, and to assure that decisions serve the best interests of the child and family. In addition, the proposed regulation requires that each case plan contain documentation of efforts made to prevent the need for placement and a statement as to why such efforts failed to prevent the child's removal from the home. The Department believes it is important to emphasize that reunification and preplacement services be available and readily accessible to all children and families in need. As proposed for reunification services, the Department has avoided imposing the more comprehensive and stringent requirement that these required services be established in every political subdivision because States must be permitted to exercise discretion in allocating essential services in a way that best matches demand with resources available. However, these required services must be readily accessible to the child and family in need.

For the first time, FFP in the costs of voluntary foster care placements [Sec. 1356.50[a]] is available when all provisions contained in Section 427 of the Act are in place and operative. Section 427 requirements include the Inventory, the Statewide information system, the case review system, reunification services program and preplacement preventive services program.

The specificity in this regulation for each of the required procedures and protections provides clarity and gives direction to the States in knowing what is expected of them and gives direction to the Department in reviewing and approving requests from those States that apply for funds above \$141 M under title IV-B, the transfer of funds from title IV-E to title IV-B or reimbursement for the costs of voluntary placements of children in foster care.

To claim its share of funds appropriated under the title IV-B when available funds are greater than \$141 M or to transfer money from IV-E to IV-B, a state must request the additional funds or transfer of funds and must certify that it has implemented the procedures and protections under Sec. 1357.30[a] of the proposed regulation.

To claim FFP in payments made for children voluntarily placed in foster care, the state must certify that it meets the provisions of Sec. 1356.50 [Voluntary Placements].

A State's eligibility for funds under this Part will be determined by review of State policies, procedures and practices and a sample review of case records.

H. Development of State Child Welfare Services Plan. Title IV-B requires that a State Child Welfare Services Plan be developed jointly by the Secretary and the State agency. For the past several years the State plans in effect were those developed in 1969. Since 1969, States have been submitting amendments to their plans [the last

in 1975], and an annual budget that has been the basis for awarding the grants. In order to make the State plan and the planning process more relevant to the legislation the proposed guidelines for State plan development were revised and published in the Federal Register on Feb. 22, 1980 [45 FR 12049] have been revised and will be republished.

The joint planning format consists of the following sections:

1. Assurances—The Assurances constitute the State Agency's commitment to meet the basic requirements of the law and regulations. They are submitted only once, unless otherwise required by the Commissioner of ACYF.

2. Long Range Strategy—In the Long Range Strategy, the State develops the goals for establishing, strengthening, extending and otherwise improving its child welfare services program over a period of two or three years. The Strategy is jointly developed by the State agency and the Children's Bureau. It must be submitted by the State agency to the ACYF Regional Office every two or three years at the State's option.

The Long Range Strategy consists of two discrete sections, the needs analysis and the long range goals and objectives. These two processes are interdependent. The needs analysis includes identification of needs and setting priorities among needs. Meeting the more important of these needs is a fundamental consideration in establishing the State's long range goals. The objectives are specific, measurable, short range activities necessary to achieve the goal.

3. Annual Operating Plan—The Annual Operating Plan is the yearly update of the State Child Welfare Services Plan. It will report the current status of the long range goals and objectives, indicate changed and new initiatives, and present an Annual Summary of Child Welfare Services.

4. Annual Budget Request—The Annual Budget Request is prepared by the State agency and submitted with the Annual Operating Plan. IV-B funds are disbursed quarterly based on this annual submission.

The guidelines and this regulation require that any Assurances which the State is not meeting must be included as goals and/or objectives in the Long Range Strategy section of the Child Welfare Services Plan. There are other Assurances which require the State to include certain information in its State plan, such as the description of services to be provided, geographic areas of availability, staff development and training plans and steps to be taken to improve and expand services.

The intent of the joint planning process, however, is for the States and Federal Government to work together to analyze the needs of children, youth and families, to plan and ultimately to accomplish initiatives and activities which respond to these needs and which may transcend the minimal requirements of law, regulation and good practice. The Long Range Strategy is that part of the plan in which these initiatives and activities are developed and set forth in measurable goals and objectives.

The goals and objectives of the Long Range Strategy, therefore, belong in two categories: [1] those goals and objectives which address the Assurances as State Plan Requirements and whose implementation are essential to the continued compliance by the State with the law and regulations; and [2] goals and objectives designed to further expand, extend and strengthen the child welfare services program in the State but whose implementation while a concern of the Children's Bureau, will not be monitored with a view to compliance.

The proposed regulation includes a provision that expressly applied 45 CFR Part 74 termination procedures in a case of State noncompliance with the State plan requirements. It is anticipated that the Department will not invoke this authority unless the issue cannot be resolved through the joint planning process.

#### I. Payments to Indian Tribal Organizations

Pub. L. 96-272 gives the Secretary discretion to decide whether a program of direct grant to Indian tribal organizations should be established, which Indian tribal organizations should be funded directly, and under what circumstances direct payments should be made.

The Department believes that direct funding of Indian tribes will strengthen the tribal child welfare services programs consistent with the goals and requirements of Pub. L. 96-272. In the legislative history of Pub. L. 96-272 [Congressional Record, June 13, 1980, S. 6944], Senator Cranston indicated that direct funding was included in the legislation because jurisdictional and other

# review

Cont. from Page 17

problems sometimes caused Indian communities to be left out of social service programs funded through State agencies. The proposed rule permits tribes meeting the eligibility requirements to apply directly to the Federal government for their share of the IV-B funds [totalling approximately \$1.08 million for all tribes]. Tribes not applying for direct grants may continue to apply to the State for their share of the IV-B allocation, that the principle is important and is affirmed by the Indian Self-Determination Act [Pub. L. 93-638] and other Federal programs. The Department recognizes that many tribes may choose not to apply for direct funding for various reasons. For example, the tribe may consider the money available too small to warrant application; the tribe may have established a productive IV-B program relationship with the State; or the tribe may determine that fewer services are available under direct grants than under a State's regular IV-B program. The Department is also aware that direct funding may cause preliminary adjustments in the working relationships between States and tribes. [However, States will not be relieved of their responsibility under other Federal programs and under the Constitution to serve Indians in a non-discriminatory manner.] The decision to permit funding of eligible Indian tribes was reached after weighing these and other factors, and ultimately determining that Indian tribes should have the right to apply for their own IV-B funds.

In determining which Indian tribal organizations will be eligible for direct funding, the Department decided to make the option of applying for direct funding available to those Indian tribal organizations which have contracted under Pub. L. 93-638 [Indian Self-Determination Act] for child welfare services provided under 25 U.S.C. 13 [25 CFR 20]. This proposed regulation addresses the concern expressed about the lack of services to Indians by permitting direct funding to Indian tribal organizations that have established the need for child welfare services and have taken advantage of the opportunity for direct management and operation of child welfare services. Under this approach, direct grants will be added to existing, ongoing Indian child welfare programs operated by the tribes. The IV-B funds will be linked to the major Indian Federal social services program, will support Indian self-determination, and will complement the provisions of the Indian Child Welfare Act of 1978 [Pub. L. 95-608]. This is important since IV-B funds alone are insufficient for an Indian tribe to establish and operate a basic child welfare services program. Aggregating funds from different Federal sources to intensify their impact is consistent with the thrust of the IV-B law which promotes progressive, comprehensive, quality child welfare services to children and families.

The Department considered other options for determining tribal eligibility to receive direct grants. One option relating eligibility to a minimum number of children in each tribe, was rejected as arbitrary and lacking in programmatic justification. A second option established eligibility criteria based on management capability and adherence to specific IV-B requirements. This option was rejected as duplicative of the developmental and capacity-building resources currently available through other programs such as title II of the Indian Child Welfare Act [Pub. L. 95-608] and the Native American Programs Act of 1974 [Pub. L. 93-644 as amended].

In determining the amount of direct funding that would be available to an Indian tribal organization eligible under this provision, in the interests of equity, the Secretary will apply a formula similar to the one used to calculate State title IV-B allotments. This formula takes into consideration the Indian tribe's resident population under 21 and its per capita income.

Because current per capita income figures for Indian tribes are not available and most Indian tribes have very low per capita income similar to the Territories, a maximum allotment percentage of 70.0 percentum the same percentum used for the territorial IV-B allotments has been used.

For the balance of a State's population, excluding tribal population, the per capita income is estimated to be slightly higher than the State's average per capita income for the entire population. This results in an allotment percentage of 46.7 per centum for the balance of the State excluding the Indian tribes.

Using these allotment percentages to calculate an Indian tribal organization's allotment results in an amount which bears approximately the same ratio to the total State's IV-B allotment as the product of 1.5 and the propor-

tion of the Indian tribe's resident population under 21 bears to the State's total population under 21.

This provision does not affect funding under titles I IV-A, IV-E and XX of the Social Security Act. Other funding allocation options were considered and rejected as unworkable by the intent of the law.

The Department has proposed to begin direct funding in the first quarter of Fiscal Year 1982. Implementation of this provision must follow publication of this proposed rule in final form. The 1982 FY date will give eligible tribes, who choose to apply, the necessary lead time to develop child welfare plans.

Each eligible Indian tribal organization or consortium applying for direct IV-B grants will be required to submit a child welfare services plan that has been developed jointly by Federal and Indian tribal organization representatives. Although the requirements in the jointly developed plan for Indian tribal organizations will differ slightly from the requirements in the State plan, the tribal organization's plan will foster the improvements in services envisioned in, and consistent with, the requirements in the law.

The plan which can be in effect for two or three years must contain the following elements: assurances that the specific requirements of the regulations are met; a long range strategy which calls for a needs analysis and goals and objectives designed to meet unmet needs; an annual operating plan; and, an annual budget request.

If eligible Indian tribal organizations applying for direct funds wish to receive their share of additional IV-B funds above \$141 million, they must meet the requirements under Section 427 of the Act [Sec. 1357.30] which relate to children who have been in foster care under the responsibility of the tribe. The requirements under IV-B and additionally those related to eligibility for funds above \$141 million are discussed more fully under the IV-B section of the Supplemental Information.

## J. Fiscal Requirements

This section of the regulation [Sec. 1357.50] sets forth the procedures for determining each State's allotment percentage and the process for reallocation. It details the change in FFP rate from the existing individual State rate [33 1/3 percent to 66 2/3 percent] to 75 percent for each State. The section on allowable costs give numerous examples of how title IV-B funds may be spent, but the list is not inclusive. The regulation also lists the limitation on expenditures: FFP in expenditures for foster care maintenance, day care because of employment of the parent or adoption assistance may not exceed the FY 1979 State allotment. The funds expended to meet the requirements of Section 427 [a] and [b] of the Act may definitely be charged to title IV-B. Some of them, such as case reviews for children on behalf of whom foster care payments are made under title IV-E, may be charged as IV-E administrative expenditures.

## K. Provision for Advance Funding

Beginning in FY 1981, Congress is to approve the title IV-B appropriation one fiscal year in advance of the issuance of allocations to the States. Knowledge of the IV-B appropriation level a year in advance will provide States budget development lead time and will facilitate child welfare services planning. This is an important provision because it is one of the two conditions necessary for the IV-E and IV-A foster care maintenance ceiling to go into effect. The other condition necessary to trigger this ceiling is that the IV-B appropriation equal or

exceed the levels specified in Pub. L. 96-272; namely: \$163.55 million in FY 81; \$220 million in FY 82 and \$266 million in FY 83 and FY 84.

## L. Maintenance of Effort

During each phase of its deliberations on HR 3434, Congress expressed concern that if the goals of the law are to be realized, funds must be available to pay for the increased responsibilities placed on the State social service systems by the new law. In addition to taking steps to protect current State investments in services to children, youth, and families, Congress clearly indicated that any increases in IV-B appropriations would go for service systems' improvements by prohibiting the fund's use for foster care maintenance payments, employment or training related day care, and adoption assistance payments. The bill passed by the House included Federal title XX expenditures in the maintenance of effort. Not wanting to limit how States spend their title XX funds, the Senate-House Conference Committee removed expenditures under title XX from the requirement. The House Ways and Means Committee Report No. 96-136 expressed the legislative intent of the maintenance of effort provision by stating that the maintenance of effort provision was to prevent the substitution of new Federal funds for existing State expenditures.

The proposed regulation effectively excludes all donated funds and any Federal title XX expenditures from the maintenance of effort provision. States obviously cannot control the receipt of donated funds and should not be accountable for their continuation. States will be expected to determine their FY 1979 expenditure level, certify their level and have supporting information available for review.

As a condition for claiming their share of the increased title IV-B appropriation above \$56.5 million, the proposed rule will require States to maintain expenditures of State and local appropriated funds for public child welfare services in fiscal year 1981 and years thereafter that are no lower than the total of those expenditures in fiscal year 1979. The maintenance of effort provision does not include expenditures for foster care maintenance payments, adoption assistance payments, and employment or work related day care. These exclusions comprised most of the child welfare service State expenditure in fiscal year 1979.

[Catalog of Federal Domestic Assistance Program No. 13.645 Child Welfare Services—State Grants]

Dated Dec. 22, 1980.

CESAR A. PERALES,


Assistant Secretary for Human Development Services.

Approved Dec. 23, 1980

Patricia Roberts, Harris,

Secretary of Health and Human Services.

**\*\*\*PLEASE NOTE THAT THIS IS NOT THE COMPLETE TEXT OF THE INTERIM FINAL AND PROPOSED FEDERAL RULES FOR PL 96-272. DUE TO LENGTH THIS IS THE FIRST HALF. FEB. 15 ISSUE WILL CONTAIN THE REST OF THE ACT. YNR IS RUNNING THIS ACT DUE TO THE EFFECT IT WILL HAVE ON OUR INDIAN CHILDREN. PLEASE REVIEW AND COMMENT.**



**Yakima Nation Review**

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Toppenish, WA. 98948

**CHECK ONE**

Enclosed is a check or money order for one year to the YNR at \$10.00 per year. PLEASE SEND TO:

Enclosed is a check or money order for one year to the YNR at \$10.00 per year. THIS IS A RENEWAL:

I am an enrolled Yakima Tribal Member. Send free to:

Enrollment No. \_\_\_\_\_

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**ADDRESS** \_\_\_\_\_

**CITY** \_\_\_\_\_ **STATE** \_\_\_\_\_ **ZIP** \_\_\_\_\_

# SPORTS

## Eugene Emerald Senior Championships

Eugene 4th Annual Emerald Senior Championships was an open invitational for 14, 15, Junior open and 16 and over open boxers. Boxing teams participating were from Oregon, Washington, California, Idaho, Montana, U.S. Army and Canada.

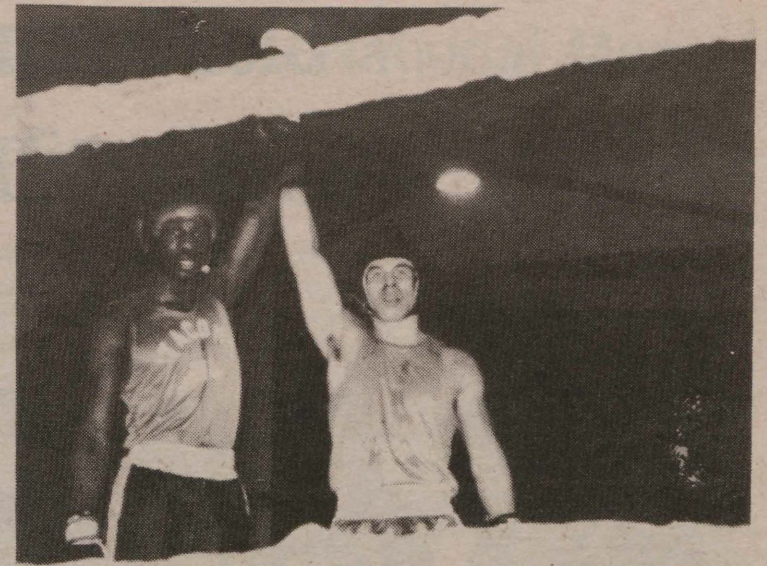
Boxer representing Yakima Nation were Bob Jones 178 open junior, Kyle Corpuz 119 open senior, Chris Corpuz 132 open junior. Bob Jones won his preliminary fight against a boxer from California. Bob moved into the championship fight against a boxer from the Tacoma Boys Club. He lost by retirement in the second round.

Kyle Corpuz lost his preliminary match to Joe Gen-

saw, of Gensaw Boxing Club, Klamath Oregon. Chris Corpuz got a Bye which put him in the championship. He lost to Richard Price of Douglas County Boxing Club.

While the Boxers were there, they got to meet the former W.B.A. heavy weight boxing champion of the world Jimmy Ellis. At this tournament over 130 boxers weighed in, this was one of the bigger tournaments held during the season.

The Yakima Nation Boxing team will be traveling to Reno, Nevada January 29, 30, 31 for a tournament.



Bob Jones (right) showing good sportsmanship after losing to Vincent James (left) of the Tacoma Boys Boxing Club. They fought for the Junior Heavy Weight championship.



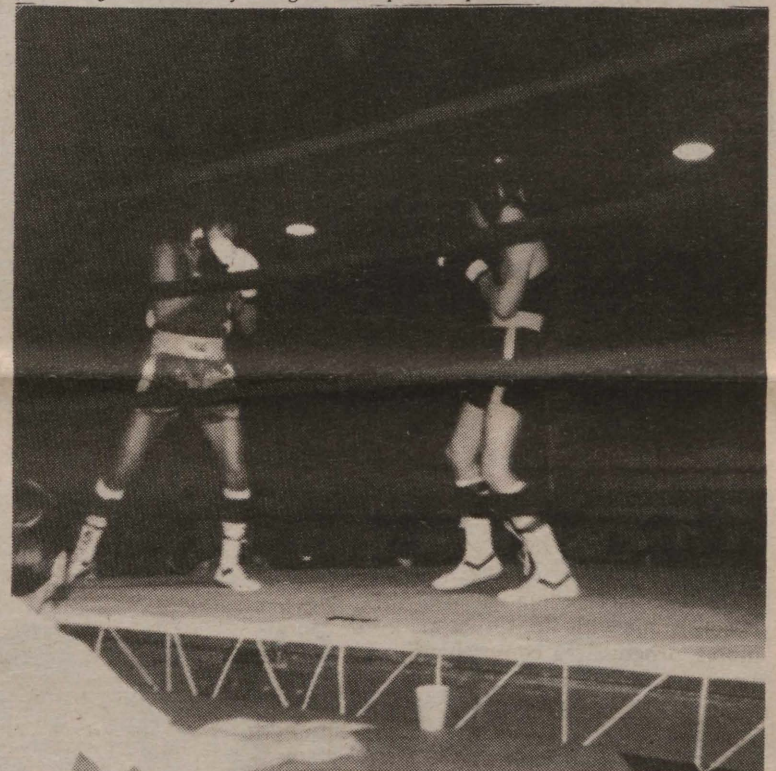
## Warm Springs Indian Boxing Tournament

Five Yakima Nation Boxers entered the All-Indian Tournament at Warm Springs, the boxers were Galen Vallo 119 lbs. Senior; Charlie Martinez 95 lbs. Junior; Marvin Martinez Jr. 125 lbs. Junior; Chris Corpuz 132 lbs. Junior; Irvin Vallo 139 lbs. Senior; Perry Tainewasher 60 lbs. Junior.

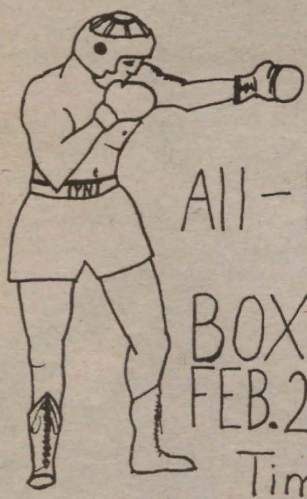
Teams attending the tournament was Carson City, Nevada; Yakima Nation, Washington; Mt. Scott Boxing Club, Portland; Canada; Genson Boxing Club, Klamath California; Seattle, Kelso Boxing Club. The team from Canada won the team trophy and the

sportsmanship trophy.

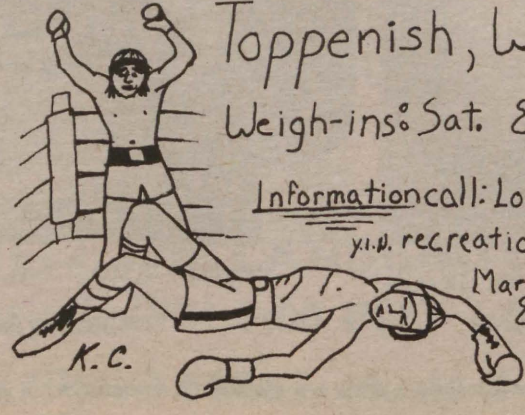
Perry Tainewasher received a jacket on a walk thru, he was the only boxer in that weight. Irvin Vallo lost his first match to Thurman Dressler of Carson City, Nevada. Marvin Martinez Jr. lost to Lawrence Caldera of Warm Springs; Charlie Martinez Jr. lost to a Canadian boxer. Galen Vallo defeated Curtis Genson for the 119 lbs. Senior Championship. Chris Corpuz won the 132 lbs. Junior Championship. They both received jackets.



Chris Corpuz (right) boxing Richard Pryce (left) of Douglas County Boxing Club for the 132 lb. Junior open championship.



YAKIMA NATION  
 All-INDIAN A.A.U.  
 BOXING TOURNEY  
 FEB. 28-MAR. 1 Sat. & Sun.  
 Time: 1:30 + 7:00 SAT.  
 Place: Stanley Smartlowit Gym  
 Toppenish, Wash.  
 Weigh-ins: Sat. 8:00 A.M. to 11:00 A.M.  
 Information call: Loren Corpuz 865-2154  
 x.p. recreation 865-5121 EXT. 410  
 Marvin Martinez 874-2999  
 K.C.




(L to R) Bob Jones, Kyle Corpuz, Jimmy Ellis; former W.B.A. Heavy Weight Champion, Chris Corpuz. Boxers from the Yakima Nation Boxing Club, shown here with Jimmy Ellis at the Emerald Senior Championships.

# "Bloodrunners Men's & Women's Basketball Tournament Results"



MENS CHAMPIONS — LAPWAI: Front (L to R) 13 - Marc Whitman; 23 - Jack McCormack; 15 - Dan Spaulding; 33 - Darryl Taylor; 21 - Kub Ellenwood; Coach Esky McCormack. Back (L to R): 41 - Gary Greene; 35 - Hood McCormack; 31 - Gib Scott; 43 - Dion Smith; 51 - Dan Stevens; 45 - Jeff Greene; 25 - Zeke Domebo.



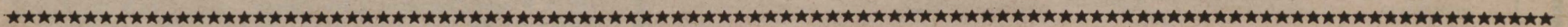
MEN'S MOST VALUABLE PLAYER:  
JACK McCORMACK



WOMEN'S CHAMPIONS — INCHELIUM: Front (L to R) Julie Michel; Cheryl Pakootas. Standing L-R: Deanne Seymour; Donna Byrd; Merna Seymour; Debbie Rosenbaum; & Sandy Seymour. Coach Joe Pakootas.



WOMEN'S MOST VALUABLE PLAYER:  
DEBBIE ROSENBAUM



CONTEXT & PHOTO'S BY SHIRLEE SPENCER

**TOPPENISH** — The Bloodrunners held their 5th Annual Men's & Women's Basketball Tournament January 23-25 at the Toppenish Community Center. Highlighting the two team double eliminations was the presentation in the women's bracket of the Margaret L. Pinkham Memorial travelling Trophy which has yet to be won three times for permanent possession. This year the trophy will be held by the team from Inchelium.

Standings for the men's division are: 1st Place Lapwai; 2nd Bloodrunners; 3rd Satus Cowboys and 4th Place Pendleton.

Men's All-Stars: Lapwai, Dion SMith; Zeke Dom-  
ebo; Bloodrunners, Tony Shilow, Farley Eaglespea-  
ker; Satus, Bill Fiander; Pendleton, Ken Hall; Spo-  
kane, Phillip Kilowatte; Inchelium, Ben Marchand;  
Warm Springs, Austin Greene; Nisqually, Farron  
McCloud.

Men's High Scorer — Delmar Whitefoot, Bloodrun-  
ners; Most Assists — John Kathcia, Warm Springs  
Magpies (8 assists); Sportsmanship went to Spokane  
tribe and Jack McCormack of Lapwai received Most  
Valuable Player Award.

Standings in the women's division: 1st Place Inche-  
lium; 2nd Place Pendleton; 3rd Warm Springs and  
4th Yakima Nation.

Women's All-Stars: Inchelium, Donna Boyd,  
Cheryle Pakootas; Pendleton, Deanne Johnson,  
Julie Taylor; Warm Springs, Fran Moses; Yakima  
Nation, Jody Pimms; Lapwai, Chris Walker; Colville,  
Myrna Abrahamson; Nisqually, Linda Costello;  
Kamiah, Sandra Holt.

The Miss Hustle Award went to Kimiko Danzuka,  
Warm Springs. High Scorer Leora Blacketer, Nisqua-  
lly with 18 points. The Sportsmanship went to  
Nez Perce Nation and Deb Rosentaum of Inchelium  
won the Most Valuable Player Award.

# Oklahoma — National Men's Basketball Tournament

**TAHLEQUAH, OK . . . .** The Capitol of the Cherokee Nation has been selected as the site of the 1981 National Indian Activities Association's Men's Basketball Tournament scheduled for April 8-11, according to Ross O. Swimmer, Cherokee Principal Chief.

"This will be the second time that we have hosted the men's nationals and we welcome back these fine teams and spectators to the Cherokee Nation," the Chief said. In 1979, the men's and women's national tournament's were staged at Tahlequah but the women's championships will be determined this year at Window Rock, Arizona during the first week in April, according to the NIAA.

National Champions La Coda Track Team from South Dakota are expected to be on hand this year to defend their title as will be the hard-driving Coup Counters, last year's second place finishers. They also are from South Dakota. Of special interest on the home court will be the efforts of the Cherokee Renegades who placed second in 1979 and third in 1980.

Basketball courts at Northeastern State University, Tahlequah Public Schools and Sequoyah High School (BIA) will be used for the tournament. The first 32 qualifying teams to register with tournament headquarters in Tahlequah will be berthed for the tournament, according to local coordinator Terry Combs. Deadline for entries is April 7.

Eligibility to participate in the tournament is based upon the team's standing at the state level. Locally, the Oklahoma Indian Athletics Association will send the top three state teams to the Tahlequah tournament.

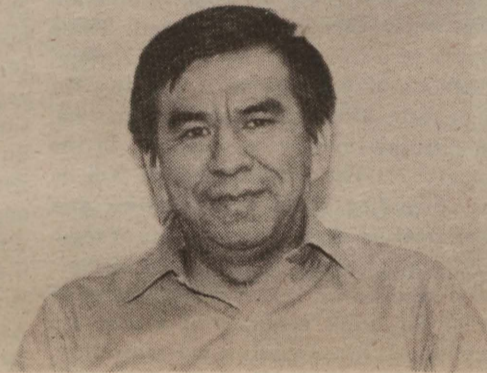
Here is a partial listing of the rules and regulations governing the men's national tournament:

- Participant/Player must be at least one-quarter Indian blood and prove tribal membership. Proof of Indian bloodline must be submitted when registering. Coaches need not be Indian.
- High school participants must have written releases from parents, athletic director and school administrator to participate.
- College participants must have approval of college administration and coach if he is a member of the varsity, intermediary or freshman squad at his school.
- Former professional players are ineligible unless reinstated in accordance with Amateur Athletic Union rules. Player must submit reinstatement papers with fees.
- Each team must pay \$25 Team Activity fee and \$200 tournament registration fee to NIAA before playing in the tournament.

For a complete list of NIAA rules or to arrange for motel accomadations write to Terry Combs, Tourism Department, Cherokee Nation, P.O. Box 948, Tahlequah, Oklahoma 74464 or call (918) 456-1991.

## Tournament Talk with Lehigh John

Many of you tournament fans have been wondering whether or not Reservation Play-offs would be taking place this year to determine the host team for this year's 26th annual event. The answer is -- no. Since the Satus Cowboys placed fourth with a 96-83 win over Davis (California) Suns in last year's silver anniversary tournament, they are automatically seeded this year. This is encouraging since it's the highest placing a local team has been able to achieve in a long time. I would hope that Satus is able to recognize their team's weaknesses and strengthen these areas by recruiting from the available local talent and begin molding this unit into a worthy representative by tournament time.



Hall in Wapato, 9:00 PM to 1:00 AM. Music will be furnished by System 2 Disco Productions.

All the fielding letters have been mailed to interested teams. If you have a championship caliber team and want to be considered, contact our Association immediately at: YNAIIBTA, P.O. Box 389, Toppenish, WA 98948. Final selections will be made TUESDAY, FEBRUARY 17.

**TOURNEY RUMORS:** It's reassuring that many of you have taken a moment to personally comment on my first column. I enjoy writing as long as you enjoy reading . . . Before working for Uncle Sam, I had inclinations to pursue a journalistic career. I used to write for some of the Valley newspapers and later became sports editor of my college newspaper my first quarter in college. However, my so-called college advisor recommended against such a career because "I had to face reality and realize that not all men are created equal, especially in the cruel world of new reporting". Who knows, I could have been reporting for Lou Grant by now? . . . Interest continues to spread as this week another numerous all-star and MVP winner Mike Jordan telephoned from St. Paul, Minnesota requesting a fielding letter. He resides there now employed as Rec Director for the Red School House . . . By the way, the MVP Award this year may include a specially designed plaque and inscribed watch. The plaque is what will be "different" . . . Don Sampson and his Trophy Committee have settled on this year's trophy designs. Again, they are beaults! . . . Engraving Unlimited in Yakima provide our trophies each year. Jim Riley is to be commended on his originality every year. . . For the first time, Haskell Indian JC has been invited to our tourney. They would be a welcome addition. I understand that they have faired well in the Indian National Finals . . . I also understand that our Tourney far surpasses the Indian National Finals. . . Until next issue.

Lehigh John

Just to remind you, Satus won three of four games last year. The first night, they defeated perennially tough Ethete, Wyoming 103-100, lost Thrusday 104-97 to Popular, Montana and then squeaked by Lapwai, Idaho 105-100 on Friday before downing Davis on the final day. Three of these opponents have walked away with the championship at one time or another while the other finished runner-up twice to Vermillion, South Dakota in 1977 and 1978. Just thought I would pass this worthy bit of information on to you.

Incidentally, the first alternate team will be selected from among our local teams on the basis of best record and team history submission for consideration by our Selection Committee. Previous tournaments have resulted in participation of this first alternate team. Don't give up hope.

I've traveled to many a tournament in my time and have witnessed the local backing a home team always gets from their fellow Tribesmen. Yet our host team in previous years have not always received the support a team needs as part of one of the ingredients necessary to achieve success. Let's not be guilty of such petty jealousies and start rooting for our host teams -- whoever it may be. Last year the rooting for our locals was more noticeable and see where it got them?

Five pretty and talented girls have officially announced their candidacy for Tournament Queen. They include Genise Miller, Regina Jim, Trudie Pinkham, Debbie Byrd and Selena Johnson. More info will be included on each girl in the next issue. The queen is selected on the basis of highest amount of ticket sales and in return receives 20% of her sales. Rumor is that this year space may be limited. Buy your tickets early to assure yourself of a seat. Season tickets are your best buy at \$15.00 which entitles you to admission to all games including the finals. Individual session tickets are \$2.00 which allow you admission to all games except Friday and Saturday.

You can meet these girls Saturday night, Feb. 7 at a "Meet the Candidates" Disco at the Filipino

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FOR MORE INFORMATION:  
Nez Perce Tribal office (208) 843-2253  
Lucille Wilson, President (208) 843-2038  
Wa-a-yas Bldg, Kamiah, ID (208) 935-2525

Vincent Lovett

# INDIAN NEWS NOTES



Ella Mae Horse (Cherokee) was one of the four to testify on behalf of the National Congress of American Indians. She also headed the Indian Inaugural Ball.

## FOUR INDIAN ORGANIZATIONS TESTIFY, COMMITTEE CONFIRMS WATT:

Four Native American organizations testified before the Senate Energy and Natural Resources Committee during the committee's hearings on Interior Secretary-designate James Watt on January 8. The committee on January 14 voted 16 to 0, with Senator Tsongas (D-Mass.) abstaining, to confirm Watt's nomination. The Indian organizations were generally supportive of the nomination after Watt told the committee on January 7 that "It's clear who my new boss will be and I will enthusiastically endorse the positions he has taken." Watt was referring to Reagan's pre-election statements endorsing tribal sovereignty and the Federal policy of Indian self-determination, and favoring strengthening of tribal governments. Betty Mele testified on behalf of Americans for Indian Opportunity, Ella Mae Horse on behalf of the National Congress of American Indians, Kenneth Black on behalf of the National Chairman's Association, and Nelson Angapak on behalf of the Alaska Federation of Natives. American for Indian Opportunity was the only Indian organization to oppose Watt's nomination. Although Watt did not mention Indian affairs in his opening statement before the Energy Committee, in responding to questions he expressed his loyalty to Reagan's Indian policies and expressed support for tribal control of reservation resources. Senator Melcher inserted Reagan's published statements on Indian affairs in the committee hearing record. Noting Watt's statement on December 24 calling the appointment of an Assistant Interior Secretary for Indian Affairs a high priority, Melcher also expressed support in the hearing record for a sub-cabinet level Indian position: "The purpose of elevating the top position in Indian affairs to the assistant secretary level was to heighten the visibility of Indian issues and perspectives to provide the Indian Bureau with an equal platform to argue the Indian side on matters on which there was a conflict with other sub-agencies within the Department of the Interior, and to make clear to officials in other Federal agencies that the top official of the Bureau of Indian Affairs was of sub-cabinet rank serving directly under the Secretary of the Interior." Watt is expected to be confirmed by the full Senate on January 20 or 21.

## BIA PUBLISHES REGULATIONS ON TRIBAL WATER CODES, RESERVATION BUSINESSES AND TRIBAL CONSTITUTIONS:

In an end-of-administration flurry of activity, the Bureau of Indian Affairs published proposed regulations on tribal water codes, Jan. 5, and reservation business practices, Jan. 6; and a final rule on procedures for reorganizing, amending or revoking tribal constitutions and for ratifying charters of incorporation, Jan. 7. The water code regulations set forth the criteria that will be used by the Interior Secretary in approving and adopting water codes enacted by Indian tribes to govern the use of reserved waters on their reservations. The regulations also provide for the Secretary to prepare and publish a water code for a reservation when this is necessary for a just and equitable distribution of the reserved waters and the tribe has either failed or refused to enact its own code. The proposed regulations on business practices on Indian reservations would modernize the trading regulations by replacing them with the consumer protection regulations of the state where the business is located. These regulations would apply to all reservations except Navajo, Hopi and Zuni. Regulations establishing procedures for Indian tribes seeking to form tribal constitutions or charters, or make changes in existing ones, were published in the Federal Register January 7. The new regulations will be applicable to tribes, including those in Oklahoma and Alaska, previously governed by three different sets of regulations, published and unpublished. A significant change, introduced by the new regulations, is that the signatures of at least 60 percent of the adult members of a tribe are required for any effective petition requesting reorganization. Previously, a petition signed by one third of the adult members was considered valid. The change will have the effect of preventing a tribal minority from harassing a tribal government by successfully petitioning for tribal reorganizations.

## NEW MEMBERS OF SENATE INDIAN AFFAIRS COMMITTEE ARE NAMED:

The newly expanded Senate Indian Affairs Committee will be chaired by Senator William Cohen from Maine. Other Republican members will be Barry Goldwater, Arizona; David Durenberger, Minnesota; and Mark Andrews, North Dakota. Mark Hatfield, who had been on the committee, has been named chairman of the Appropriations Committee. The three Democratic members remain. They are John Melcher, Montana; Daniel Inouye, Hawaii; and Dennis DeConcini, Arizona.

## PRESIDENT'S 1982 BUDGET REQUEST INCLUDES \$1.055 BILLION FOR BIA:

The 1982 national budget request submitted to Congress January 15 by President Carter included a request for \$1.055 billion for the Bureau of Indian Affairs and another \$1.1 million for the operation of the office of Interior's Assistant Secretary for Indian Affairs. The BIA budget request would provide an increase of \$34 million over 1981 funding for the operation of Indian programs. The request for construction funds is about \$23 million more than 1981 funding. The \$883 million asked for the operation of Indian programs includes \$282 million for education; \$240 million for Indian services; \$75 million for economic development and employment programs; \$87 million for natural resources development; \$48 million for trust responsibilities and \$151 million for general management and facilities operation. For construction \$57 million was requested for irrigation systems; \$62 million for buildings and utilities and \$53 million for roads. The total federal funding for the Bureau in fiscal year 1981, the current year, is \$1.109 billion. This figure includes the actual appropriations, pay-cost adjustments and pending supplemental requests. It also includes non-recurring payments of \$81.5 million to the Maine Indian tribes and \$30 million to the Alaska Natives for the settlement of claims. The President's budget request is always modified by the actions of the House and Senate; in this change-of-administration year it is likely to be modified, also, by the incoming President.

## FEDERAL RECOGNITION OF TUNICA-BILOXI INDIAN TRIBE IS PROPOSED:

The Secretary of the Interior has published notice in the Federal Register that he proposes to acknowledge the Tunica-Biloxi Indian Tribe of Mansura, Louisiana as a federally recognized tribe. The tribe consists of about 200 members. The tribe is the contemporary successor of the historical Tunica, Ofo and Avoyei tribes and part of the Biloxi Tribe. They will be the third tribe to be given federal status through the Bureau of Indian Affairs federal acknowledgment; 72 other groups have filed applications for acknowledgment.

## FREDERICKS SWORN IN AS ASSISTANT SECRETARY UNDER A RECESS APPOINTMENT:

Tom Fredericks was made the second Interior Assistant Secretary for Indian Affairs through a "recess" appointment made by President Carter, effective January 2. He was formally sworn into office by an Office of Personnel Management official January 8. A recess appointment for positions normally requiring Senate confirmation can be made during a recess of the Senate. It becomes effective without Senate confirmation and can continue until the end of the next session of the Senate. Fredericks, a Mandan-Hidatsa, was nominated for the position in June, 1980 but his confirmation was blocked by Arizona Senator Dennis DeConcini. He has been functioning as the director of the Office of Assistant Secretary with the title of Deputy Assistant Secretary. The office was created within the Department of Interior in 1977. Forrest Gerard, a Blackfeet Indian, was the first appointee to the position.

## DISTRIBUTION OUTLETS

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# Walking On

**SALUSKIN**—Sandra V. Temens Saluskin, 17, of East Toppenish Road, was killed in an automobile accident in The Dalles, Jan. 21. She was born May 27, 1964 in Toppenish and attended grade and elementary school in Toppenish and was a junior in Toppenish High School. Miss Saluskin was active in basketball, was past president of the high school's Indian Club, and was a ceremonial dancer. She had completed in Indian ceremonial dancing through out the wester U.S., winning many honors. She was a member of the Yakima Indian Nation and the St. Aloysius Catholic Church.

in Toppenish. Mrs. George was born June 17, 1898, in Spearfish. She married Simon George in Spearfish in 1934. She lived most of her life in the Yakima Valley. She was a member of the Yakima Indian Nation and the Independent Shaker Church in White Swan. Her husband, Simon, died Nov. 28, 1969.

Mrs. George is survived by two sons, Nelson Moses of White Swan and Clifford Moses of Wapato; two daughters-in-law, Tillie Moses of White Swan and Betty Moses of Wapato; a sister, Lena Meninick Phillips of Satus; 15 grandchildren; 10 great-grandchildren; several nieces and nephews including Walter Speedis and Margaret La Mere of Wapato.

Funeral services for Dorothy Speedis George were conducted early Jan. 28 with the body leaving the Independent Shaker Church in White Swan at 7 a.m. for the Wish-Ham Cemetery near The Dalles Bridge on the Columbia River. Jasper Andy and Leon Strom officiating.

Our "heartfelt thanks" to all who extended comforting sympathy and help in our recent loss of our beloved son, brother, and grandson—**GARY BYRON FRANK**. And for the beautiful Seven Drum's services, floral offerings, and other kindnesses. We are deeply grateful.

Gary Byron Frank is survived by his parents, Willie and Ada Frank; sister, Sandra Frank, Mrs. Ida Adams; grandmother, Mrs. Isabel Frank; grandfather, Fred Colfax, Jr.; grand uncle, Kenneth Frank; and great-great grandmother, Sally George and also his first cousins in Oregon, Washington and Idaho.

Gary Bryon Frank—Indian name "Hyia-Tum um", born Jan. 20, 1958 and passed away Dec. 29, 1980. Buried at Black Wolf Cemetery on Jan. 1.

**GARY BYRON FRANK FAMILY**

**QUEEN Candidates** wanted for Treaty Days Rodeo on June 6 & 7. Application deadline Feb. 27. For more contact Betty Sampson at 509/848-2854 or 877-2191 or Sandi Palmer at 848-2501.

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## LEGAL NOTICES

**YAKIMA TRIBAL COUNCIL**, will hold its regular monthly meeting Feb. 3, 1981 at the Yakima Tribal Conference Room, Yakima Governmental Offices, Toppenish, WA. at 10:00 a.m. An agenda for the monthly meetings is prepared by the Sec. of the Tribal Council, Joe Sampson, reflecting the principal business & considerations before the eight committees of the tribal government. These are: Timber, Grazing, Overall Economic Development Com., Chrmn. Russell Jim, Sec. Anthony Washines, William Hoptowit and Nelson Moses; Fish, Wildlife, and Law & Order Com., Chrmn. William Yallup, Sec. Levi George, Moses Dick, and William Hoptowit; Loan, Extension, Education and Housing Com., Chrmn. Harvey Adams, Sec. Melvin Sampson, Levi George and Wilferd Yallup; Health, Employment, Welfare, Recreation and Youth Activities Com., Chrmn. Nelson Moses, Sec. Roger Jim, Melvin Sampson, and Wilferd Yallup; Roads, Irrigation and Land Com., Chrmn. Roger Jim, Sec. Harvey Adams, Moses Dick and Russell Jim; Enrollment Com., Chrmn. Johnson Meninick, Sec. Joe Sampson, Watson Totus and Anthony Washines; Legislative Com., Chrmn. Melvin Sampson, Sec. William Yallup, Roger Jim and Joe Sampson; & Budget and Finance Com., Chrmn. Johnson Meninick, Sec. Joe Sampson and Watson Totus. Officers for the Yakima Tribal Council are Chrmn. Johnson Meninick, Vice-Chrmn. Watson Totus, Sec. Joe Sampson, Asst. Sec. Anthony Washines, Sgt-at-Arms Moses Dick. For more information contact: Yakima Tribal Council, Yakima Governmental Offices, P.O. Box 151, Toppenish, WA 98948 or ph. 509-865-5121.

## JOBS

**FIRE CONTROL WORKER I**, Forestry [leadworker], \$10,150-13,686. Responds to forest and range wildfire emergencies as a member of a fire-fighting crew. Secondary duties include issuing camping & fishing permits, maintenance of campgrounds, trails, & water systems, & other duties as assigned. Requires person who is resourceful, a self-starter, & who is willing to attend training sessions. Must be willing to work at various stations, including Tract D. May require working alone at time. Requires good health & ability to withstand adverse weather conditions, long hours & rough terrain. Requires possession of or ability to obtain a valid WA. state driver's license & flexibility in living arrangements. Submit applications/resumes to: Personnel Manager, Attn: Marie James, Yakima Indian Nation, P.O. Box 151, Toppenish, WA., 509-865-5121. Closes Feb. 2

**THE TRIBAL COUNCIL** of the Washoe Tribe of Nevada and California is recruiting for a Tribal Manager. The Manager functions as the Tribe's Chief Administrative Officer, responsible to the Tribal Council for the Planning, Organizing, Coordinating, and Directing the activities of all Tribal Programs, and direct assistance to the Tribal Council to successfully administer all areas of the Tribal Government's operations, prepare the annual budget and administer personnel policies. Prior responsible management experience with emphasis in the areas of Finance, Grantsmanship, Personnel Administration, and liaison with policy-making community organizations. Minimum Education Requirements: A bachelor's degree in Public or Business Administration. Preference will be given to qualified Indian applicants. The salary range is from \$22,902.00 to \$30,691.00 per annum. Applica-

## JOBS

tions will be accepted until the 20th of Feb, 1981, 5:00 p.m. Send resume to: Mr. Robert L. Frank, Chairman, Route 2, Box 68, Gardnerville, NV 89410. Telephone: Washoe Tribe, 702/782-5191 or 883-1446.

**NURSE COMM. HEALTH** At Redcliff Reservation. Salary starting \$17,500 negotiable depending upon qualifications. Primary responsibility—provide nursing leadership in the planning, development, implementation and evaluation of community health services. Deadline Aug. 29. Starting date Oct. 1, 1980. For further information contact: Tribal Manager, Redcliff Tribal Office, PO Box 529, Bayfield, WI 54814, 715-779-5805.

**CHIEF FINANCIAL OFFICER** KLUKWAN, INC. Job located in Haines, Alaska. Responsible for the organization's overall financial plans and policies along with its accounting practices & the conduct of its relationship with lending institutions, shareholders and the financial community. Direct treasury, budgeting, audit, tax, financial & cost accounting, purchasing, real estate, and insurance activities for the corporation & its subsidiaries. Has specific responsibility for developing and coordinating necessary & appropriate accounting and statistical data with and for all departments of the business. Responsible for development of all accounting & reporting systems. For more information, contact William Thomas, Chief Executive Officer of Klukwan, Inc. at 907-766-2211 or send resume to Klukwan Inc., Box 594, Haines, Alaska 99827. Salary negotiable DOE. Resumes will be accepted until Jan. 7. Complete job descriptions available upon request..



She is survived by her parents, Rudolph and Gladys Saluskin of Toppenish; four brothers, Ronald, Rudolph A. and Brian Paull Saluskin, all of Toppenish, and Stephen Saluskin of Seattle; a sister, Julia Ann Saluskin of Toppenish; her grandmother, Mrs. Ellen Saluskin of Toppenish; two aunts, Virginia Beavert of Toppenish and Edwina George of Omak.

Mass of the Resurrection for Sandra V. Saluskin was held on Jan. 24 at 10 a.m. in the St. Aloysius Catholic Church, Toppenish. Father Martin Skehan celebrant. Dressing services were held Jan. 23 at the Colonial Funeral Home.

**GEORGE**—Dorothy Speedis George, 82, of Route 4 Box 4013, Wapato, died Jan. 25 in Central Memorial Hospital

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**SPECIAL NOTICE**

Your local Red Cross has been invited by National Red Cross headquarters to participate in a special blood study on the native Indian population. The American Red Cross is attempting to increase the number of known rare blood donors within the Indian Nations. A special drawing has been set in Toppenish to conduct this study on Feb. 5 at Garfield School from 2-6 p.m. At this drawing, we will be asking people if they have any Indian ancestry and if they would like to take part in this important study. IT IS UP TO THE INDIVIDUAL TO MAKE THIS DECISION.

The study is being done to determine the frequency and genetic distribution of tissue antigens among Indians. This study has not been done among the Indian populations before, yet is important to conduct such a study so that it may benefit the Indian community in organ transplantation and supportive treatment in illness like leukemias and anemias, etc.

If you are willing to participate this study will only be share among qualified and authorized personnel upon request. If you have any questions, please contact Red Cross at 457-4171. Blood will also be used for blood bank and if you would like donation to go to one individual please state so at time of drawing.

Nancy Roedell457-4173.

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