



## North Carolina Department of Health and Human Services Division of Social Services

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Mail Service Center 2409

Michael F. Easley, Governor  
Carmen Hooker Odom, Secretary

Pheon E. Beal, Director  
(919) 733-3055

December 2, 2005

### **URGENT!!!**

**Dear County Directors of Social Services:**

**RE: Increase in LINKS Trust Fund maximum allowance for FFY 05-06**

**In a federal program instruction issued November 18, 2005\* states were informed that Trust Funds allowed prior to the implementation of the Chafee Act must be discontinued. North Carolina is allowed to continue to use its Independent Living Trust Funds for allowable aftercare expenditures for youth who would have been eligible under the old IL program until September 30, 2006. After that point all remaining Trust Funds will revert to the Federal government.**

Counties are hereby given an opportunity to claim additional reimbursement from the LINKS Trust Funds for up to **\$1500 per eligible youth**. If you have already used LINKS Trust Funds for one or more of your youth, their maximum amount available will be reduced by the amount already expended during this Federal fiscal year which began October 1, 2005. We will track the expenditure rate and may adjust the allowable cap further if needed.

Since claiming reimbursement for these additional funds is likely to cause a cash flow burden to the counties, we have received permission through the Controller's office to allow for twice monthly EFT reimbursement for Trust Funds only. Beginning December 15, we will submit all county requests for IL Trust Fund reimbursement on the 15<sup>th</sup> and 1<sup>st</sup> of the month. The other Special Funds will continue to be reimbursed monthly.

#### Eligibility for Trust Funds:

- the individual must have been in foster care on or after their 16<sup>th</sup> birthday;
- The individual must have been discharged from custody, or is expected to be discharged within the next six months; **and**
- The youth or young adult must be certified and authorized as eligible for Trust Funds by the DSS social worker using form DSS-5216. Reimbursement is requested using form DSS-5217.

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\* attached to letter

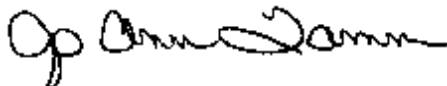
Allowability of expense:

- The expenditure must qualify as an aftercare expense, i.e. the purchase of an item or service is needed to facilitate transition to self-sufficiency.

A memorandum with suggested uses of these funds is included with this letter.

Please inform your business office and your LINKS liaison of this change. If you have questions, please email the state program coordinator at [Joan.McAllister@ncmail.net](mailto:Joan.McAllister@ncmail.net).

Sincerely,

A handwritten signature in black ink, appearing to read "JoAnn Lamm". The signature is fluid and cursive, with the first name "JoAnn" and the last name "Lamm" clearly distinguishable.

JoAnn Lamm, Section Chief  
Family Support and Child Welfare Services

cc Pheon Beal  
Sherry Bradsher  
Children s Program Representatives  
Work First Representatives  
Family Support and Child Welfare Services Team Leaders  
Local Business Liaisons  
Sarah Barham

**FSCWS-56-05**

## IL Trust Fund

North Carolina's Independent Living Trust Fund is made up of funds from the former Independent Living Initiative which are designated for aftercare services. These funds can be used for any youth who was in foster care after the age of 16 and is now 16 through 20 years of age and either has been discharged from custody or is to be discharged within the next six months. Youth who are participating in a CARS/VPA agreement are eligible for access to these funds, since they are no longer in agency custody. These funds can be applied to a variety of non-housing costs that are barriers to a youth's transition.

**North Carolina must expend remaining funds in the Independent Living Trust Fund by September 30, 2006. All funds remaining in the Trust Fund after that date will be reverted to the Federal government. Counties may claim reimbursement for eligible expenditures up to \$1500 for youth and young adults who meet eligibility criteria and who demonstrate their own efforts to make a successful transition to adulthood. The \$1500 cap is for the entire federal fiscal year, which began October 1, 2005. Expenditures on behalf of a youth during the current fiscal year do apply toward the \$1500 total.**

Examples of eligible expenditures

### Household

- Furniture
- Household furnishings
- Initial groceries
- Household appliances
- Utility down payments

### Transportation

- Auto repair,
- Auto or health insurance,
- Transportation: bus passes for employment or school
- Transportation costs to establish or strengthen personal support network
- down payments on cars (for working young adults only)

### Education/Job training

- computers,
- tutoring for older high school and college students,
- Educational expenses not included as costs of attendance for students receiving ETV's
- Costs of attendance for students not eligible for ETV's
- dormitory room supplies
- Uniforms or other clothing for work,
- Work equipment or tools

### Other

- Identification documents such as birth certificate, Social Security card, driver's license or non-driver photo identification
- Driver's education costs
- financial incentives to discharged youth to encourage contact with the agency at regular intervals after discharge, so that problem areas may be addressed before they become crises.
- Other expenditures that are needed by the youth/young adult to promote his or her self-sufficiency, safety, health, educational/vocational success, and strong, healthy relationships with responsible, caring adults.

**Not allowed:**

- Trust funds may not be used for rent, rent deposits, room and board arrangements or down payments on dwellings.
- Trust funds may not be used to supplement Educational Training Vouchers for expenses considered to be costs of attendance such as tuition, fees, books, school supplies, dorm fees or room and board,
- Trust funds may not be used to help minors purchase or maintain cars without the expressed approval of the state LINKS coordinator. Approval is based on the youth's circumstances, need, maturity, demonstrated responsibility as a driver, and the ability to maintain the vehicle financially without compromising his/her education or vocational training.

# ACF

Administration  
for Children  
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Administration on Children, Youth and Families

1. **Log No:** ACYF-CB-PI-05-06

2. **Issuance Date:** 11/18/05

3. **Originating Office:** Children's Bureau, Administration on Children, Youth and Families (ACYF)

4. **Key Words:** Chafee Foster Care Independence Program (CFCIP), Trust Funds, Youth, Foster Care, Independent Living, Asset Limits

## PROGRAM INSTRUCTION

**TO:** State Agencies and Territories Administering or Supervising the Administration of Title IV-E of the Social Security Act (the Act); and State Independent Living Coordinators

**SUBJECT:** Trust Funds under the Chafee Foster Care Independence Program (Chafee), Section 477 of the Social Security Act.

**REFERENCES:** Sections 471, 472, 474, 475, and 477 under Title IV-E of the Social Security Act; Public Law 106-169; *Principles of Federal Appropriations Law*, General Accountability Office (GAO) Volume 1, Chapter 5, January 2004.

**This Program Instruction (PI) supersedes the authority granted for the operation of Chafee trust funds by the approval of a State's Child and Family Services Plan (CFSP) submitted on or before June 30, 2004. It also supersedes section 4.d (trust fund certification) of ACYF-PI-93-01 issued on December 10, 1993, and section 5.b of PI ACYF-CB-PI-02-05 issued on May 10, 2002.**

**PURPOSE:** The purpose of this Program Instruction (PI) is to provide guidance to States, the District of Columbia and Puerto Rico on the use of Chafee funds to create trust funds to support eligible youth, as determined by the State under the Chafee Foster Care Independence Program (CFCIP).

The PI is being issued to clarify the conditions under which a State may establish and maintain a trust fund program under CFCIP; the rules with regard to the expenditure of trust funds; and the procedures for liquidating any funds under the former Independent Living Programs (ILP) or current Chafee program that were placed in trust funds prior to September 30, 2004.

**BACKGROUND:** On December 10, 1993, under the former Federal Independent Living (IL) Initiative, the Administration for Children and Families (ACF) issued ACYF-PI-93-01, which contained requirements for the operation of a "trust fund." The PI indicated that jurisdictions could establish and maintain a trust fund for the purpose of assisting youth leaving foster care with expenses identified in the youth's overall individual IL plan. These trust funds were for one-time only expenses and items associated with helping the youth make a more orderly and positive transition from foster care.

Application requirement number six of ACYF-PI-93-01 contained the following information regarding trust funds.

"If a State chooses to establish trust funds for youth leaving foster care, the State's application must indicate clearly how the trust funds will be financed, how they will be integrated into the overall individual IL plan, the rules that will govern the use of and

disbursement from such funds, and the safeguards that will be employed to ensure that no Federal IL funds are used by the State for the provision of room and board.”

As a part of the title IV-E foster care program, the original ILP operated under the same policies and procedures regarding income and service eligibility as title IV-E foster care. Thus, a youth in care had an individual asset limit of \$1,000. In many cases, this limit prevented youth from amassing the resources necessary to prepare for self-sufficient living once they left care. The limit was also a disincentive to personal saving and employment while still in care. With the passage of the Adoption and Safe Families Act (ASFA) in 1997, the individual asset limit was increased to \$5,000.

The Foster Care Independence Act of 1999 (FCIA) was enacted in December 1999 as Public Law (P.L.) 106-169. Prior to its enactment, States used the trust funds to address transitioning and aftercare needs for older youth who were discharged from care or who were to be discharged shortly. The expenses covered included items associated with setting up a household, utility deposits, furniture and insurance. States using trust funds established eligibility criteria and procedures for accessing the funds.

FCIA amended section 477 of the Social Security Act (the Act) to replace the former IL Initiative with the newly established John H. Chafee Foster Care Independence Program (CFCIP). CFCIP provided States with more funding and greater flexibility in carrying out programs designed to help youth make the transition from foster care to self sufficiency. Also, under FCIA, the individual asset limit was increased to \$10,000.

In May 2002, ACF issued ACYF-CB-PI-02-05 containing instructions for the establishment and operation of trusts funds under CFCIP. States were asked to describe the design and delivery of the trust fund program (section 477(b)(2)(A) of the Act), how the trust funds would be incorporated into the individual case plans of youth receiving CFCIP services, and the State policies that would govern the use and disbursement of such funds. However, that PI did not provide specific guidance on the Federal appropriations law provisions relevant to operating trust funds.

The Children’s Bureau has received inquiries from States concerning the use of trust funds for expenses associated with youth leaving foster care under the State child welfare system. We have recently learned that some States that developed trust funds under the former Federal IL Initiative may have substantial amounts of unexpended funds in these accounts that have accumulated over a period of years.

**INFORMATION:**

In accordance with section 477(b) of the Act, States are required to submit a 5-year plan to the Secretary of Health and Human Services (HHS) for review and approval, detailing their plans for operating the CFCIP and certifying adherence to legislative mandates. Recently, several States have submitted requests to amend their 5-year CFCIP plans to establish trust funds with Federal CFCIP dollars. If approved, the trust funds would be used to provide services that are allowable under CFCIP for youth meeting CFCIP eligibility requirements as determined by each State.

When responding affirmatively in the Child Welfare Policy Manual to the question, “does the Chafee legislation allow States to develop and utilize trust funds for youth” (3.3E 1), ACF states that States are able to use Chafee funds to establish individual trust funds for specifically identified eligible youth, but must describe the design and delivery of the trust fund program in their CFCIP plans.

Moreover, in accordance with the provisions of section 477(d)(3) of the Act and within the terms and conditions of the CFCIP grant, funds must be expended by the State no later than September 30 of the fiscal year following the fiscal year in which they were awarded. Therefore, any funds placed into a trust account for an individually identified eligible youth must be withdrawn from such fund and expended by the State for an allowable CFCIP purpose **prior to** the expiration of the 2-year expenditure period.

A trust fund, as commonly defined, is a fund whose assets are managed by a trustee or a board of trustees for the benefit of another party or parties. Usually, such stewardship is expected to be a

long-term arrangement whereby the funds are protected and disbursed over a period of a number of years. Under CFCIP, trust funds have been established by some States to assist former foster youth with expenses associated with living on their own and to provide incentives for saving. Accordingly, a pool of funds is established from which payments can be made to an indeterminate number of youth eligible under a State's guidelines.

The CFCIP grant, like most formula grants, is time-limited with regard to the period in which the funds must be expended. Therefore, although the need may extend beyond the grant period, the enabling legislation clearly limits the expenditure period to no longer than two years (i.e., the end of the fiscal year following the year in which the funds were awarded.) Thus, any continuing need on the part of eligible youth must be met with funds expended under subsequent appropriation(s).

Federal appropriations law also applies to grantee expenditure of CFCIP funds. One of the fundamental principles of appropriations law is the "bona fide needs" rule. This rule states that an appropriation may be obligated only to meet a legitimate or "bona fide" need arising in the fiscal year (or years, in the case of a multi-year appropriation such as the two-year CFCIP grant) for which the appropriation was made. Chapter 5.b.1 of the *Principles of Federal Appropriations Law*, issued by the Government Accountability Office (GAO), states that "...the obligation bears a sufficient relationship to the legitimate needs of the time period of the obligational availability of the appropriation charged...." Thus, a two-year CFCIP grant, beginning October 1 of Year 1 and ending September 30 of Year 2 is available only to meet the needs that arise during that two-year grant period.

With regard to "future years' needs", GAO's *Principles of Federal Appropriations Law*, at chapter 5.b.2., states that "an appropriation may not be used for the needs of some time period subsequent to the expiration of its period of availability." Any discussion of obligating for future years' needs inevitably leads to the issue of year-end spending. Some years ago [8 Comptroller Decision (Comp. Dec.) 346,348 (1901)], this legal issue was addressed very succinctly in a decision of the Comptroller of the Treasury as follows:

"An appropriation should not be used for the purchase of an article (or service) not necessary for the use of a fiscal year in which ordered merely in order to use up such appropriation. This would be a plain violation of the law."

Thus, if an obligation were made toward the end of a grant period (as a State might propose to do with its deposit of unobligated and unexpended CFCIP funds into a "trust fund account") and it is clear from the facts and circumstances that the need relates to a time period beyond the grant period, the "bona fide needs" rule would be violated. If the need exists at present, then the obligation and expenditure must occur prior to the end of the grant period.

We are aware of situations that exist whereby States have created trust funds in past years under either the former ILP, or under Chafee. In doing so, they may have placed ILP or Chafee dollars into these trust funds sometime during the 2-year expenditure period and, subsequently, not understanding the meaning of "expenditure" in this context, reported them as expenditures to HHS without having distributed them to eligible youth. As noted previously, funds placed in a trust fund cannot properly be reported as expenditures unless they have been expended for costs incurred for program purposes within the two-year expenditure period. As a consequence, some States now have substantial balances of funds awarded to them in previous fiscal years in their trust funds that have not been expended in accordance with the guidance provided above.

## **POLICY**

We have given serious consideration as to how to best address and remedy this situation and have developed the following policy to permit States sufficient time to expend any outstanding funds.

- **Funds awarded prior to Fiscal Year (FY) 2004 (i.e., prior to October 1, 2003):**
  - Any ILP or Chafee funds awarded during this period that were not drawn down or placed in a State-created trust fund prior to

October 1, 2004, are no longer available to the State and will be recouped by ACF and returned to the U.S. Treasury.

- Any ILP or Chafee funds awarded during this period that were drawn down prior to October 1, 2004, and still remain in a State-created trust fund, must be expended no later than September 30, 2006.
  - These funds must be expended for costs incurred for program purposes pursuant to State guidelines that were in effect at the time the funds were awarded by ACF.
  - The funds must be expended only for activities that were allowable under the ILP program, or are allowable under the Chafee program.
  - Any ILP or Chafee funds awarded during this period and not expended (liquidated) by September 30, 2006, will be recouped by ACF and returned to the U.S. Treasury.
- **Funds awarded in FY 2004 and thereafter (i.e., on or after October 1, 2003):**
    - Any Chafee funds awarded during this period must be expended no later than one year from the last day of the fiscal year in which the funds were awarded. For example:
      - Funds awarded during FY 2004 (October 1, 2003 through September 30, 2004) must have been expended no later than September 30, 2005;
      - Funds awarded during FY 2005 (October 1, 2004 through September 30, 2005) must be expended no later than September 30, 2006;
      - Funds awarded during FY 2006 (October 1, 2005 through September 30, 2006) must be expended no later than September 30, 2007; etc.
  - **The following general rules now apply:**
    1. The State may develop and utilize trust funds for eligible youth, in accordance with provisions outlined in the ACF Child Welfare Policy Manual.
    2. The design and delivery of the trust fund must conform to general grants administration requirements (45 Code of Federal Regulation (CFR) Part 92 and applicable terms and conditions) and general appropriations law (Chapter 5 of the *Principles of Federal Appropriations Law*) applicable to the purpose of the trust funds and the timing of the obligation and expenditure of yearly grant appropriations.
    3. The trust fund account may not be established for the primary purpose of preventing funds from lapsing.
    4. Funds deposited into a trust fund account utilizing a particular grant year's funds may be deposited into such account at any time during the grant period. Such a deposit will be considered to be an *obligation* of funds as of the date of the deposit. All such funds must be obligated no later than the last day of the fiscal year following the fiscal year in which the funds were awarded.
    5. The full amount deposited into each trust fund must be disbursed to eligible youth prior to the expiration of the applicable grant period. An expenditure of funds (i.e., the *liquidation* of the obligation) will be considered to have been made on the date that monies are *disbursed* from the trust fund. All funds must be liquidated no later than the last day of the fiscal year following the fiscal year in which the funds were awarded. Any funds remaining unliquidated after that date will be recouped by HHS.

**INQUIRIES TO:**

ACF Regional Administrators, Regions I - X

Joan E. Ohl  
Commissioner  
Administration on Children, Youth & Families