

Best Interests and Reasonable/Active Efforts Findings Required Under Title IV-E

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Event: Hearing or Order	Timing Requirement	Required Findings (Bolded language must be included in court orders)	Consequence of Failure to Comply with Timing Requirement
Requirements for first orders or first hearings for: <ul style="list-style-type: none"> • Involuntary removal of child (law enforcement hold or order for immediate protective custody) • Children over age 18 re-entering foster care 			
Order removing child based upon county's ex parte request for immediate custody	Very first court order removing the child	<p>Continuation of the child in the custody of the parent or legal custodian is contrary to the child's welfare and out of home placement is in the best interests of the child. Minn. Stat. § 260C.151, subd. 6</p> <p>AND</p> <p>The child is in surroundings or conditions that endanger the child's health, safety, or welfare requiring responsibility for the child's care and custody to be immediately assumed by the responsible social services agency. Minn. Stat. § 260C.151, subd. 6</p>	<ul style="list-style-type: none"> • No eligibility for Title IV-E reimbursement for entire length of placement. • Order cannot be amended to add missing language. • A nunc pro tunc order cannot be used to correct the timing issue.
Emergency Protective Care (EPC) Hearing within 72 hours of child's removal	<p>Very first court order removing the child</p> <p>If first order occurred ex parte (see above), review and repeat at EPC hearing and include in order from EPC hearing</p>	<p>Continuation of the child in the custody of the parent or legal custodian is contrary to the child's welfare and out of home placement is in the best interests of the child. Minn. Stat. § 260C.178, subd. 1(f)</p> <p style="text-align: center;">AND ONE OF THE TWO FOLLOWING "REASONABLE EFFORTS" FINDINGS</p> <p>Reasonable efforts (or active efforts¹ if the child is an Indian child) were made by the social services agency to prevent placement of the child in foster care. Note, this finding means either that:</p> <p>(1) the agency has made reasonable efforts to prevent placement of the child in foster care by working with the family to develop and implement a safety plan; or</p> <p>(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available that could allow the child to safely remain in the home. Minn. Stat. § 260C.178, subd. 1(e); Minn. Stat. § 260.012(d); Minn. Stat. § 260.762; 25 USC § 1912(d)</p> <p>OR</p> <p>Reasonable efforts to prevent placement and for rehabilitation and reunification are not required because the petition establishes a prima facie case for an expedited permanency proceeding.²</p>	<ul style="list-style-type: none"> • No eligibility for Title IV-E reimbursement for entire length of placement. • Order cannot be amended to add missing language. • A nunc pro tunc order cannot be used to correct the timing issue.

¹ Active efforts to prevent the breakup of the Indian family are required under the Indian Child Welfare Act (ICWA), [25 U.S.C. § 1912](#), [Minn. Stat. § 260.012\(c\)](#), and [§ 260C.178, subd. 1\(e\)](#), and [§ 260.762](#), among others, require the court to make determinations about the agency's active efforts consistent with the ICWA. For a definition of "active efforts," see the [Code of Federal Regulations, 25 CFR § 23.2 \(Dec. 2016\)](#).

² This finding of "reasonable efforts not required" is appropriate in CHIPS "expedited permanency cases," also called "CHIPS bypass cases," identified under [Minn. Stat. § 260.012](#)³ where, consistent with [Minn. Stat. § 260C.503, subd. 2](#), the county bypasses CHIPS proceedings and proceeds directly to permanency if the court determines the petition states a prima facie case for one of the

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Requirements for first orders or first hearings for: <ul style="list-style-type: none"> • Voluntary placement under Minn. Stat. Chapter 260C – placement not due to child’s disability • Voluntary foster care for treatment under Minn. Stat. Chapter 260D – placement due solely to child’s disability 			
Review of placement of child in voluntary placement under Minn. Stat. Chapter 260C (child not placed due to disability)	First hearing on petition – hearing must be within 20 days of service of the petition for review of voluntary placement ³	Continuation of the child in the custody of the parent or legal custodian is contrary to the child’s welfare and out of home placement is in the best interests of the child. The child’s needs are being met. Minn. Stat. § 260C.141, subd. 2(b) AND Reasonable efforts to reunify the child and the parent or legal custodian are being made and the child will be returned home within three months of this order. Minn. Stat. § 260C.141, subd. 2	No eligibility for Title IV-E reimbursement after 180 days
Review of placement of child in voluntary foster care for treatment under Minn. Stat. Chapter 260D (child placed due to disability)	In order issued within 175 days of the agreement for voluntary foster care for treatment ⁴	Continuation of the child in the custody of the parent or legal custodian is contrary to the child’s welfare and out of home placement is in the best interests of the child. The child’s needs are being met. Minn. Stat. 260D.06.subd. 2(e) ; AND Reasonable efforts to reunify the child and the parent or legal custodian are being made and the child will be returned home within three months of this order.	No eligibility for Title IV-E reimbursement after 180 days
Requirements for permanency hearings and orders, including termination of parental rights, transfer of permanent legal and physical custody to a relative, permanent custody to the agency, and temporary custody to the agency			
Admit/Deny Hearing on TPR or Permanency Petition⁵	Not later than 12 months after court-ordered removal. ⁵ For permanency cases resulting from a CHIPS bypass, finding must be made at EPC and reviewed and repeated in permanency Admit/Deny order.	The petition states a prima facie basis that the agency has made reasonable efforts, or active efforts in the case of an Indian child, to reunify the child and the parent or legal custodian. Minn. Stat. § 260C.507(c) OR The petition states a prima facie basis that reasonable efforts for reunification are not required under Minn. Stat. 260.012(a). Minn. Stat. § 260C.507(c); Minn. Stat. § 260.012(a) (CHIPS bypass or expedited permanency proceedings).	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the Admit/Deny hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.

specified types of bypass cases. When a case is a bypass case and a permanency petition is filed, an admit/deny hearing must be held within 10 days of the filing of the petition. [Minn. Stat. § 260C.507\(b\)](#)

³When a child has been in foster care for reasons other than disability and is not returned home within 90 days of the voluntary placement agreement, the county must file a petition asking the court to continue voluntary foster care for up to an additional 90 days or file a CHIPS petition, TPR petition, or permanency petition. [Minn. Stat. § 260C.141, subd. 2\(a\)](#); [Minn. Stat. 260C.227](#). A hearing on the petition must be commenced within 20 days of service of the petition. The best interests and reasonable/active efforts findings must be made during the hearing. [Minn. Stat. 260C.227](#). If the child is not returned home by day 180, the county must file a CHIPS petition, TPR petition, or permanency petition.

⁴Within 165 days of the date of the agreement for voluntary foster care for treatment, the agency shall file with the court and serve upon the parties a written report regarding the reason for and status of the child’s voluntary placement and attaching an out of home placement plan. Within 10 days of receipt of the report, the court must the required findings. [Minn. Stat. 260D.06, subd. 2\(e\)](#).

⁵[Minn. Stat. § 260C.505\(a\)](#) requires a permanency petition to be filed within 11 months of the child’s removal from home, and [Minn. Stat. 260C.507\(a\)](#) requires an admit/deny hearing on the petition to be commenced no later than 12 months after the child is ordered placed out of the home. The findings must be made at the time of the Admit/Deny Hearing and in the order resulting from the Admit/Deny Hearing.

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Trial on TPR or Hearing on any Permanency Petition	By month 14 for most trials For permanency cases resulting from a CHIPS bypass, finding must be made within 60 days of filing of petition	<p>Reasonable efforts were made to reunify the child and the parent(s). Minn. Stat. § 260C.301, subd. 8</p> <p>OR for ICWA cases: Active efforts were made to prevent the breakup of the Indian family. 25 U.S.C. §1912(d)</p> <p>OR</p> <p>Reasonable efforts for reunification are not required as provided in Minn. Stat. § 260.012. Minn. Stat. § 260C.301, subd. 8</p>	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the Admit/Deny hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.
Additional Findings for Disposition of Permanent Custody to Agency	Not later than 12 months after court-ordered removal.	<p>The agency has established compelling reasons for the child to continue in foster care. No other permanency disposition is in the best interests of the child.</p> <p>AND</p> <p>The responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or relative who would agree to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful. Minn. Stat. § 260C.515, subd. 5</p>	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the annual review hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.
Requirements for orders from periodic reviews after child comes under guardianship of commissioner, is in the permanent custody of the agency, or is in foster care after age 18			
Reviews of Child Under State Guardianship	Hearings to review the status of progress toward adoption are required at least every 90 days following a TPR	<p>The agency is making reasonable efforts to finalize the adoption of the child. Minn. Stat. § 260C.607, subd. 4(a)(1); Minn. Stat. 260C.605, subd. 1</p>	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.
Reviews of Permanent Custody to the Agency	At least annually and permanency order issued	<p>The agency is making reasonable efforts to finalize the permanent plan for the child. This means: (1) the agency has made reasonable efforts to identify a more legally permanent home for the child than is provided by an order for permanent custody to the agency for placement in foster care; and (2) the agency's engagement of the child in planning for independent living is reasonable and appropriate. Minn. Stat. § 260C.521, subd. 1(b) and (c); Minn. Stat. § 260C.203;</p>	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the annual review hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.

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Reviews of children in voluntary foster care after the child's 18th birthday	At least annually; foster care may be supervised independent living once the child is 18	<p>The agency is making reasonable efforts to finalize the permanency plan by supporting the youth's continued success in placement, planning for independent living as demonstrated by the youth's progress in achieving independent living goals, and preparing the child for independence.</p> <p>Minn. Stat. § 260C.451, subd. 9; Children's Bureau Program Instruction, PI-10-11 See also, definition of "child" at Minn. Stat. § 260C.007, subd. 4</p>	<ul style="list-style-type: none"> • Eligibility for Title IV-E reimbursement will cease if the annual review hearing is not timely held and the findings not timely made. • Eligibility may be re-established once the court holds the hearing and makes the findings. • Reimbursement will not be available for the period of time when the findings were not made.