199.555 State-funded adoption assistance payments -- Conditions.

(1) A "special-needs child" means:

    (a) A child which the state has determined cannot or should not be returned to the home of the child's parents; and

    (b) A child which the state has first determined:

        1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and

        2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of these parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.

(2) "State-funded adoption assistance" means a monthly payment to assist in meeting the special needs of a child which was placed by the Cabinet for Health and Family Services. The state-funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.

(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special-needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the special-needs adoption and which are not incurred in violation of state or federal law.

(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, Medicaid, or other third-party payors or government programs.

(5) If the secretary of the Cabinet for Health and Family Services or his designated representative finds that a child may benefit from being adopted and that a monthly assistance payment to adoptive parents after the adoption will increase the likelihood of adoption, state funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:

    (a) The child was considered a special-needs child prior to the adoption;

    (b) The child is committed to the Cabinet for Health and Family Services and the cabinet has authority to consent to the child's adoption; and

    (c) The adoptive parents can give suitable care to the child if a monthly adoption assistance is paid.

(6) Agreements for the payments of state funds under this section shall be made prior to the adoption of the child. However, if the secretary for health and family services or his designated representative finds that the adoption is likely to

disrupt, state-funded extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for Health and Family Services;

(b) The child was considered a special-needs child prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the state-funded post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(13), which shall be deposited in a restricted account for the purpose of assisting special-needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly state-funded assistance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for health and family services in accord with 42 U.S.C. sec. 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

(a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);

(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or

(c) The cabinet determines that the child is no longer receiving any support from the parents.

(9) Parents who have been receiving state-funded adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.

(10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Amended 1974 Ky. Acts ch. 179, sec. 1. -- Created 1972 Ky. Acts ch. 346, sec. 1.