MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY AND CHILDREN'S SERVICES

Cover Memorandum accompanying the September 29, 2006 filing of Adoption Rule-Final Notice by the Division of Family and Children's Services issuing new Review Hearing policy for its policy manual.

Listed below are the four new or amended rules to the agency's policy manual that accounts for the substantive differences between the former Permanency (Dispositions) or Review Hearing policy and that is now listed as Review Hearings.

1. Proposed Rule:

   Section 101(I)(C) of The Adoption and Safe Families Act of 1997 (Public Law 105-89) states that the court or administrative body must make a findings of whether or not reasonable efforts have been made to finalize the permanent plan, while Section 43-15-13(8) of the Mississippi Code also maintains that the department's first priority shall be to make reasonable efforts to reunify the family when temporary placement of the child occurs or shall request a finding from the court that reasonable efforts are not appropriate or have been unsuccessful. A determination shall also be made as whether such placement continues to be appropriate and in the best interest of the child.

   Current Rule:

   A written court order shall result from the review hearing and the hearing shall determine the future status of the child (including, but not limited to, whether the child shall be returned to the parent, shall be continued in foster care for a specified period, shall be placed for adoption, or shall, because of the child's special needs or circumstances be continued in foster care on a permanent or long-term basis).

2. Proposed Rule:

   MDHS is directed to invite parents and/or legal guardians, foster, adoptive or kinship-care parents, as well as the grandparents to the review hearings, pursuant §43-21-603(5)(e).

   Current Rule:
   None

3. Proposed Rule:

"Permanency Hearing" is defined in PL 105-89, Section 1355.30, as being "a hearing that is held no later than 12 months after the date the child is considered to have entered foster care or within 30 days of a judicial determination that reasonable efforts to reunify the child and family **are not** required. After the initial permanency hearing, subsequent permanency hearings must be held not less frequently than every 12 months during the child's continuation in foster care."

PL 105-89 continues to state that the Permanency Hearing must be conducted by a family or juvenile court or another court of competent jurisdiction or by an administrative body appointed or approved by the court but a paper review, agreed order or other actions or hearings **not open** to the participation of the parents of the child, the child (if appropriate age), foster and/or adoptive parents, **are not** permanency hearings.

Current Rule:

If the plan is to return the child to the parent, a judicial determination shall be made and the court order shall state that reasonable efforts are underway to make it possible for the child to return home and the expected date of reunification. For children in out-of-state placement, a determination shall also be made as whether such placement continues to be appropriate and in the best interest of the child.

The federal law calls this hearing a permanency hearing. Mississippi state law requires the review hearing annually.

4. Proposed Rule:

The worker assigned to the case, must request the Permanency Hearing in MACWIS, sixty (60) days prior to the hearing due date.

Current Rule:

None

Review Hearings

Section 43-15-13(5) of the Mississippi Code of 1972, as amended, and 42 U.S.C.675§ 475(5)(C), state that a review hearing shall be held by a family, juvenile, tribal or another court of competent jurisdiction or by an administrative body appointed and/or approved by the court or by personnel within MDHS.

Section 101(I)(C) of The Adoption and Safe Families Act of 1997 (Public Law 105-89) states that the court or administrative body must make a findings of whether or not reasonable efforts have been made to finalize the permanent plan, while Section 43-15-13(8) of the Mississippi Code also maintains that the department's first priority shall be to make reasonable efforts to reunify the family when temporary placement of the child occurs or shall request a finding from the court that reasonable efforts are not appropriate or have been unsuccessful. A determination shall also be made as whether such placement continues to be appropriate and in the best interest of the child.

A written court order shall result from the review hearing or administrative bodies. It must show that a determination was made about the future status of the child, including, but not limited to, whether the child shall be returned to the parent, shall be continued in foster care for a specified period, shall be placed for adoption, or shall, because of the child's special needs or circumstances be continued in foster care on a permanent or long-term basis. MDHS is directed to invite parents and/or legal guardians, foster, adoptive or kinship-care parents, as well as the grandparents to the review hearings, pursuant §43-21-603(5)(e).

Section 475(5)(B) of 42 USC 675 states "each child is reviewed periodically but no less frequently than once every six months by either a court or by an administrative review." These reviews may be labeled by the reviewing body as a Six Month Review Hearing, Dispositional Hearing or a Permanency Hearing, but there is a difference between a Permanency Hearing and any other review of the case.

"Permanency Hearing" is defined in PL 105-89, Section 1355.30, as being "a hearing that is held no later than 12 months after the date the child is considered to have entered foster care or within 30 days of a judicial determination that reasonable efforts to reunify the child and family **are not** required. After the initial permanency hearing, subsequent permanency hearings must be held not less frequently than every 12 months during the child's continuation in foster care."

PL 105-89 continues to state that the Permanency Hearing must be conducted by a family or juvenile court or another court of competent jurisdiction or by an administrative body appointed or approved by the court but a paper review, agreed order or other actions or hearings **not open** to the participation of the parents of the child, the child (if appropriate age), foster and/or adoptive parents, **are not** permanency hearings.

The worker assigned to the case, must request the Permanency Hearing in MACWIS, sixty (60) days prior to the hearing due date.