§ 453-a. Payments for non-recurring adoption expenses. 1. A social services official shall make payments for non-recurring adoption expenses incurred by or on behalf of the adoptive parents of a child with special needs, when such expenses are incurred in connection with the adoption of a child with special needs through an authorized agency. In accordance with subdivision two of this section, the payments shall be made by the social services official either to the adoptive parents directly, to the authorized agency on behalf of the adoptive parents or to an attorney on behalf of the adoptive parents for the allowable amount of attorney's fees or court costs incurred in connection with such completed adoption.

2. The amount of the payment made pursuant to this section shall be determined pursuant to the regulations of the department. Nothing herein shall obligate a social services official to make payments for the full amount of non-recurring adoption expenses incurred by or on behalf of the adoptive parents of a child with special needs.

3. Payments for non-recurring adoption expenses made by a social services official pursuant to this section shall be treated as administrative expenditures under title IV-E of the social security act and shall be reimbursed by the state accordingly.

4. Payments under this section shall be made pursuant to a written agreement between the social services official, other relevant authorized agencies and the adoptive parents of a child with special needs. The written agreement shall specify the nature and amount of any payments, services and assistance to be provided, shall stipulate that the agreement remain in effect regardless of the state of residence of the adoptive parents at any time and shall contain provisions for the protection of the interests of the child where the adoptive parents and the child move to another state while the agreement is effective. Applications for such subsidies shall be accepted prior to the commitment of the guardianship and custody of the child to an authorized agency pursuant to the provisions of this chapter, and approval thereof may be granted contingent upon such commitment.

5. When the parental rights of a child with special needs have been terminated in this state and the child's guardianship has been committed to an authorized agency, the child is adopted in another state and the adoptive parents are not eligible for payments of non-recurring adoption expenses in the other state, a social services official shall make payments of the non-recurring adoption expenses incurred by or on behalf of the adoptive parents, if such parents are otherwise eligible for payments under subdivision one of this section.

6. As used in this section, non-recurring adoption expenses shall mean reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of federal law or the laws of this state or any other state.

7. As used in this section, a child with special needs shall mean a child who:

(a) the state has determined cannot or shall not be returned to the home of his or her parents; and

(b) the state has first determined:

(i) is a handicapped child as defined in subdivision two of section four hundred fifty-one of this title, or is a hard-to-place child as defined in paragraph (c) of subdivision three of section four hundred fifty-one of this title; and

(ii) a reasonable, but unsuccessful effort has been made to place the child with appropriate adoptive parents without adoption assistance. Such an effort need not be made where such efforts would not be in 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 such parents as a foster child.