

# UAA Transition Guidance

6-12-14

## 1. UAA grandfathered cases<sup>i</sup>

IF the case is UAA grandfathered,	THEN the UAA does not apply and the case would be processed like any pre-UAA orphan adoption case.
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## 2. Primary provider requirements in IR-3 cases that are not UAA grandfathered in which no adoption services were provided on or after July 14, 2014

IF no adoption services were provided on or after July 14, 2014, <sup>ii</sup>	THEN no accredited primary provider is required to conclude the immigration process.
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## 3. Providing adoption services on or after July 14, 2014, in an IR-3 or IR-4 case that is not UAA grandfathered

IF one or more adoption services are provided in the case (e.g., a home study or a home study update or amendment <sup>iii</sup> ) on or after July 14, 2014, other than by a public foreign authority or competent authority,	THEN the U.S. accredited primary provider is responsible for the adoption services provided on or after July 14, 2014, but is not responsible for adoption services provided before July 14, 2014.
IF a public foreign authority or competent authority provides one or more adoption services in the case on or after July 14, 2014,	THEN the U.S. accredited/approved primary provider is not responsible for supervising the provision of those adoption services.  However, the primary provider still needs to complete a service plan under 22 CFR 96.44, identifying who is responsible for providing each adoption service and ensuring that all adoption services are provided, and under 22 CFR 96.46 to supervise or verify any adoption service provided by a foreign supervised provider or foreign provider, respectively.

## UAA Transition Example Cases

### Transition Example Case A:

<b>Scenario</b>	<b>Application of the Transition Guidance to Case A:</b>
<p>In an IR-3 case that is not UAA grandfathered, a home study was completed before July 14, 2014, and the adoption was finalized before July 14, 2014. There is no accredited agency or approved person acting as the primary provider in the case and the family is seeking an immigrant visa for the child in August 2014. The home study does not require an update or amendment. (For IR-4 cases in which adoption services remain following visa issuance, see Transition Example Case C.)</p>	<p>A primary provider is not required because no adoption services were provided on or after July 14, 2014.</p>

### Transition Example Case B:

<b>Scenario</b>	<b>Application of the Transition Guidance to Case B:</b>
<p>In an IR-3 case that is not UAA grandfathered, a home study was completed before July 14, 2014, and all other adoption services were provided before July 14, 2014. The final adoption occurred after July 14, 2014. (A final adoption is not an “adoption service” as defined in the accreditation regulations.) There is no accredited agency or approved person acting as the primary provider in the case and the family is seeking an immigrant visa for the child in August 2014. The home study does not require an update or amendment. (For IR-4 cases in which adoption services remain following visa issuance, see Transition Example Case C.)</p>	<p>A primary provider is not required because no adoption services were provided on or after July 14, 2014.</p>

**Transition Example Case C:**

<b>Scenario</b>	<b>Application of the Transition Guidance to Case C:</b>
<p>In an IR-4 case that is not UAA grandfathered, all adoption services that could already be provided were completed before July 14, 2014. The prospective adoptive parents realize that certain adoption services will be performed after July 14, 2014, (i.e., adoption service 5: post placement monitoring; and, potentially, adoption service 6<sup>iv</sup>: services relating to a disruption before final adoption; and are trying to find an accredited agency or approved person to act as the primary provider in their case. One adoption service provider (ASP) they contacted was reluctant to take on the role of primary provider because she believed she would become responsible for all adoption services already provided in the case and did not want to take on so much risk.</p>	<p>An accredited agency or approved person is required to assume the role of primary provider in the case, but is only responsible for the adoption services provided on or after July 14, 2014, not for those provided prior to that date. In this example, there are one or more adoption services left to provide after July 14, 2014: adoption service 5 and, and potentially, adoption service 6. Therefore, the primary provider in the case is only responsible for the remaining adoption services provided on or after July 14, 2014. The agency assessing its risk in becoming a primary provider in such a case will not be held accountable by the accrediting entity for adoption services provided in the case by other entities before July 14, 2014.</p>

**Transition Example Case D:**

<b>Scenario</b>	<b>Application of the Transition Guidance to Case D:</b>
<p>In an IR-3 case that is not UAA grandfathered, prospective adoptive parents are adopting in a country in which U.S. ASPs are precluded from providing services and public foreign authorities and competent authorities perform all in-country adoption services. The home study was completed before July 14, 2014, and does not need to be updated or amended. All other adoption services were provided by public foreign authorities or competent authorities of the country of origin before July 14, 2014.</p>	<p>A primary provider is not required because no adoption services were provided on or after July 14, 2014.</p>

**Transition Example Case E:**

<b>Scenario</b>	<b>Application of the Transition Guidance to Case E:</b>
<p>In an IR-3 case that is not UAA grandfathered, prospective adoptive parents are adopting in a country in which U.S. ASPs are precluded from providing services and public foreign authorities or competent authorities perform all in-country adoption services. The home study was completed before July 14, 2014, and does not need to be updated or amended. Some of the adoption services in the case were provided by public foreign authorities or competent authorities of the country of origin before July 14, 2014, and some were provided after July 14, 2014.</p>	<p>A primary provider is not required because no adoption services were provided on or after July 14, 2014 by any person or entity other than a public foreign authority or competent authority.</p>

**Transition Example Case F:**

<b>Scenario</b>	<b>Application of the Transition Guidance to Case F:</b>
<p>In an IR-3 or IR-4 case that is not UAA grandfathered, the family needs an amended or updated home study on or after July 14, 2014, and no other adoption services were provided on or after July 14, 2014. An accredited home study agency could perform the amended or updated home study, but informs the prospective adoptive parents that it will not do so because it does not want to take on the responsibility for all of the other adoption services provided up to this point in time.</p>	<p>A primary provider is required to perform or review and approve the updated or amended home study. The primary provider preparing or reviewing and approving the updated or amended home study is responsible only for the updated or amended home study, and not for adoption services provided before July 14, 2014.</p>

**Transition Example Case G:**

<b>Scenario</b>	<b>Application of the Transition Guidance to Case F:</b>
<p>In an IR-3 or IR-4 case that is not UAA</p>	<p>A primary provider is required to perform</p>

<p>grandfathered, the family needs an amended or updated home study on or after July 14, 2014, <u>and</u> other adoption services were provided on or after July 14, 2014.</p>	<p>or review and approve the updated or amended home study. The primary provider preparing or reviewing and approving the updated or amended home study is responsible for the updated or amended home study, and not for adoption services provided before July 14, 2014. The primary provider is also responsible for any other adoption services provided on or after July 14, 2014, unless those adoption services are provided by a public foreign authority or competent authority.</p>
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- i** UAA-Grandfathered cases fall into two groups:
- Those in which the prospective adoptive parents (PAPs) filed Form I-600A or Form I-600 before July 13, 2013; OR
  - Those in which a State Department consular or Adoption Division officer or a USCIS officer finds that the prospective adoptive parents submitted an application to the relevant competent authority (the application need not designate a specific child) or the prospective adoptive parents accepted a match proposed by a competent authority or appropriate entity, before July 13, 2013.

**ii** This includes, but is not limited to, cases in which a home study (that does not have to be updated or amended) was completed before July 14, 2014, AND the adoption was finalized before July 14, 2014, AND otherwise meets IR-3 requirements.

- iii** Home study update and amendment considerations:
- The updated or amended home study must be completed by an accredited/approved agency or person, or by a supervised home study preparer, or by an exempted provider.
  - An accredited agency must review and approve any updated or amended home study that was not performed by an accredited agency. This requirement does not apply to an updated or amended home study that was prepared by a public domestic authority.
  - By preparing, supervising preparation of, and/or reviewing and approving an updated or amended home study, the accredited agency becomes the primary provider in the case by operation of 22 CFR 96.14(a) if no other accredited agency or approved person is involved in the case.
  - Nevertheless, if no additional adoption services were provided on or after July 14, 2014, the primary provider preparing or reviewing and approving the updated or amended home study is responsible only for the updated or amended home study or its review and approval, and not for adoption services provided before July 14, 2014.
  - If a home study (or home study update or amendment) and/or other adoption services are required on or after July 14, 2014, then the primary provider is only responsible for the adoption services provided on or after July 14, 2014.

- iv** 22 CFR 96.2 Definitions:
- Adoption service** means any one of the following six services:
- (1) Identifying a child for adoption and arranging an adoption;
  - (2) Securing the necessary consent to termination of parental rights and to adoption;
  - (3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;
  - (4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;
  - (5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or
  - (6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.