

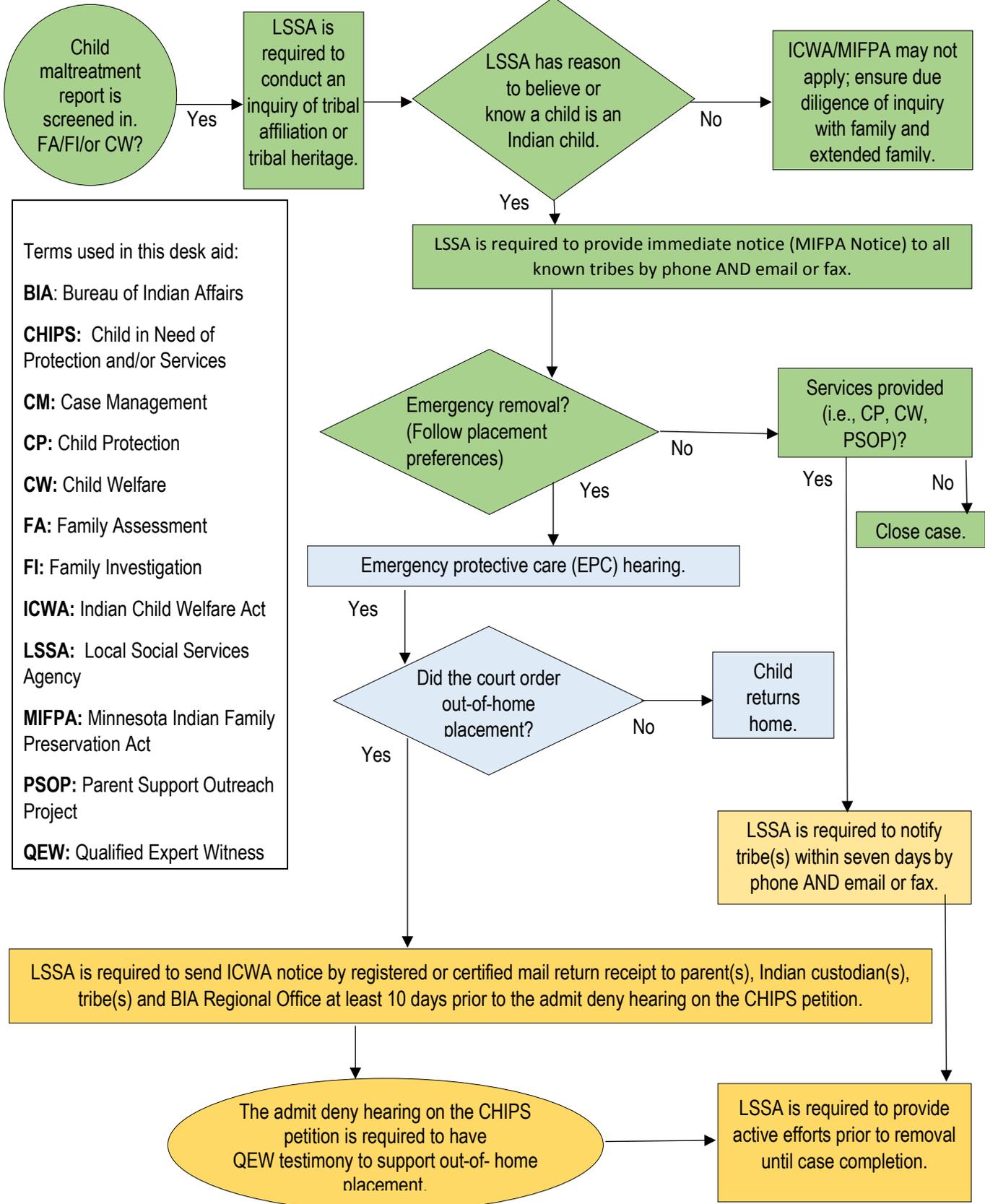
**Indian Child Welfare Act/Minnesota Indian Family Preservation Act Desk Aid**

24 Hours

72 Hours

7 Days

Ongoing CM



- Terms used in this desk aid:
- BIA:** Bureau of Indian Affairs
  - CHIPS:** Child in Need of Protection and/or Services
  - CM:** Case Management
  - CP:** Child Protection
  - CW:** Child Welfare
  - FA:** Family Assessment
  - FI:** Family Investigation
  - ICWA:** Indian Child Welfare Act
  - LSSA:** Local Social Services Agency
  - MIFPA:** Minnesota Indian Family Preservation Act
  - PSOP:** Parent Support Outreach Project
  - QEW:** Qualified Expert Witness

During assessment/investigation and on-going case management, follow all ICWA, MIFPA and BIA requirements. This desk aid provides basic instructions for following these requirements.

## Major Requirements of ICWA/MIFPA

<b>Inquiry</b>	<p>Local social services agency shall inquire of child, parents, Indian custodians, extended family members and other appropriate persons if there is any reason to believe a child may have tribal lineage. Inquiry should be ongoing throughout the opening and closure of a case. Tribal eligibility can be given verbally and later provided in writing.</p> <p><b>NOTE:</b> Tribal decision about eligibility/membership is conclusive when a tribe is given sufficient information to make an accurate determination.</p>
<b>MIFPA Notice</b>	<p><b>MIFPA Notice requirements:</b></p> <ul style="list-style-type: none"> <li>• Within 24 hours of a screened in FA or FI case; notification should be provided to any known tribes by phone <b>and</b> email or fax. [Minn. Stat. 260.761, subd. 2 (a)]</li> <li>• Within seven days of a CW case; notification should be provided to any known tribes by phone <b>and</b> email or fax. [Minn. Stat. 260.761, subd. 2 (b)]</li> </ul>
<b>ICWA Notice</b>	<p><b>ICWA Notice requirements:</b></p> <p>Notification must be provided and received by parents, Indian custodians, child's tribe(s) and the BIA Regional Office by registered or certified mail with return receipt requested, of a pending child custody proceeding. [25 C.F.R. §23.111]</p>
<b>Active efforts prior to removal to prevent removal and to reunify</b>	<p>Active efforts include acknowledging traditional helping and healing systems of an Indian child's tribe. The local social services agency has a duty to prevent out-of-home placement and promote family reunification.</p> <p>A local social services agency shall:</p> <ul style="list-style-type: none"> <li>• Work with Indian child's tribe and family to develop an alternative plan to out-of-home placement,</li> <li>• Seek guidance from Indian child's tribe on family structure, how a family can seek help, what family and tribal resources are available, and what barriers a family faces that could threaten its preservation before making a decision that may affect an Indian child's safety and well-being, or when contemplating out-of-home placement of an Indian child, and</li> <li>• Request participation of Indian child's tribe at the earliest possible time, and request tribe's active participation throughout a case.</li> </ul> <p><b>NOTE:</b> The court is required to make a finding that a local social services agency provided active efforts prior to an Indian child's out-of-home placement. [Minn. Stat. 260.762, subd. 3]</p>
<b>Qualified Expert Witness (QEW)</b>	<p>The local social services agency, or any other party, shall make diligent efforts to locate and present to the court a qualified expert witness designated by Indian child's tribe. QEW testimony is required:</p> <ul style="list-style-type: none"> <li>• For any foster care placement at the admit deny hearing on the CHIPS petition (not EPC hearing) to support out-of-home placement.</li> <li>• For any termination of parental rights (TPR) petition at the TPR hearing to support TPR and should be provided at the transfer of permanent legal and physical custody (TPLPC) hearing to support TPLPC.</li> </ul> <p>Due diligence must be documented and provided to the court of an agency's efforts to locate a QEW, if it cannot obtain testimony. MIFPA requires, in descending order, preference for a QEW:</p> <ol style="list-style-type: none"> <li>1. A member of an Indian child's tribe who is recognized by their tribal community as a QEW.</li> <li>2. An Indian person from an Indian community who has substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and contemporary and traditional child-rearing practices of an Indian child's tribe.</li> </ol>
<b>Placement preferences</b>	<p>Tribes can determine their own placement preferences by resolution, and should be considered first when a local social services agency is making a placement decision.</p> <p><b>Foster care/pre-adoption</b></p> <ol style="list-style-type: none"> <li>1. Member of a child's extended family</li> <li>2. Foster home licensed, approved or specified by child's tribe</li> <li>3. Indian foster home licensed or approved by an authorized non-Indian licensing authority</li> <li>4. Institution for children approved by an Indian tribe or operated by an Indian organization</li> </ol> <p><b>Adoption</b></p> <ol style="list-style-type: none"> <li>1. Member of child's extended family</li> <li>2. Other members of a child's tribe</li> <li>3. Other Indian families</li> </ol> <p><b>NOTE:</b> Bonding or attachment that resulted from time spent in a non-preferred placement is not sufficient reason to depart from placement preferences.</p>
<b>Relevant state and federal laws, regulations and guidelines</b>	<ul style="list-style-type: none"> <li>• Minnesota Indian Family Preservation Act (MIFPA), Minn. Stat. 260.751 – 260.835</li> <li>• Indian Child Welfare Act (ICWA), 25 U.S. Code (U.S.C.) 1901 – 1923</li> <li>• The 2016 Bureau of Indian Affairs (BIA) Regulations for Indian Child Welfare Act Proceedings, 25 Code of Federal Regulations (CFR), part 23</li> <li>• The 2015 BIA Guidelines for State Courts and Agencies in Indian Child Custody Proceedings.</li> </ul>