

# 5

## CONDUCTING A DISCLOSURE SEARCH

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# 5

## CONDUCTING A DISCLOSURE SEARCH

### 5.1 Introduction

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The Virginia Department of Social Services (VDSS) *Adoption* Unit maintains a permanent record of all adoptions finalized in Virginia since July 1, 1942 and has the primary responsibility for maintaining adoption records and administering the release of information from those records. *Public and private child placing agencies* (CPAs) have the responsibility of releasing information from closed adoption records *upon approval from the Commissioner*.

Based on the Code of Virginia, the adult adoptee and various other members of the adoption triad may have access to information in the closed adoption record when certain criteria are met and an application for disclosure is submitted to the VDSS *Adoption* Unit. The applicant may request the release of non-identifying information or identifying information from the adoption record.

### 5.2 Legal Citations

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The Code of Virginia in Chapter 12, §§ [63.2-1245](#) through [63.2-1248](#) provides law on permanent record retentions, disposition of reports, and disclosure of birth family information.

### 5.3 Conducting a disclosure search

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Upon receiving an application for disclosure, the Adoption Disclosure Specialist, on behalf of the Commissioner of Social Services, will request that the CPA initially involved in the applicant's adoption conduct the search. If the private agency is no longer in operation, the LDSS or a private LCPA may be asked to conduct the search. The *Adoption* Unit mails a Letter of Appointment, a copy of the Application for Disclosure, and the adoption record to the searching agency. A copy of the Letter of Appointment is also sent to the adoptee. Once the agency receives the Letter of Appointment, they are authorized to begin working on the search case.

The agency should report the results of its search to the Commissioner no later than **90 days** from the date of the Letter of Appointment. If the CPA needs additional time for the search, the CPA may *submit a written request* to the Adoption Disclosure Specialist for a **30 day, 60 day, or 90 day** extension. *The request for extension should include the reason for the request and extension requested timeframe (30 day, 60 day, or 90 day).*

## 5.4 Disclosure of non-identifying information

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Non-identifying information is generally defined as information which does not identify the birth family. Trace information is any information that could lead to the identification of the birth family and shall be edited from the record. All information in a file must be reviewed carefully to ensure that no information that would provide a trace to the birth family is released.

Non-identifying information from the adoption record can be released to the adoptive parents, the adoptee who is 18 years of age or older, and the CPA that is providing services to the adoptee and/or adoptive parents. Adoptive parents have access to non-identifying information from the adoption record any time after the entry of the final order of adoption.

In the event that the adult adoptee wants information on the adoptive parents (e.g., the home study or Report of Investigation), the adult adoptee must have a notarized consent from each adoptive parent on whom the information is requested or a death certificate for that person.

### 5.4.1 Special types of non-identifying information

*There are two types of non-identifying information that require special handling: critical medical information and letters and pictures.*

#### 5.4.1.1 Critical medical information

In any case where a physician or licensed mental health provider submits a written statement, in response to a request from the adult adoptee, adoptive parent, birth parent, or adult birth siblings indicating that it is critical that medical, psychological or genetic information be conveyed; the statement shall state clearly the reasons why this is necessary ([§ 63.2-1247 C](#)). The CPA that does the investigation shall make an attempt to inform the adult adoptee, adoptive parents, birth parents, or adult birth siblings, whichever is applicable, of the information. It is the responsibility of the VDSS to provide information from the adoption record if necessary to facilitate the search. Confidentiality of all parties shall be maintained by the agency which means that identifying information cannot be shared; only the non-identifying critical medical information can be given.

If an adult adoptee, birth parent, birth sibling, or adoptive parent contacts a CPA with critical medical information to share with other members of the adoption triad, the requirements are as follows:

- The client needs to request his physician or licensed mental health provider to send the agency a letter, stating that it is critical that medical, psychological, or genetic information be conveyed to the other party. The letter must state the reasons why this is necessary.
- Upon receipt of the doctor's letter certifying the necessity to share critical medical information, the CPA should inform VDSS of the request and attempt to locate the other family members.
- The CPA can contact the adult adoptee directly if there is critical medical information from the birth family.
- The CPA can share the medical diagnosis and related information, but cannot release names, locations, or other identifying information to the other party.

#### **5.4.1.2 Letters and pictures**

If the CPA that was involved in the adoption is willing, the law allows the CPA to act as an intermediary for the purpose of exchanging pictures and non-identifying information, such as letters, with the adoptive parent(s) and birth parent(s) when the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such an arrangement can occur when at least one of the adoptive parents and one of the birth parents agree in writing. Such an agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the adult adoptee.

The adoptive parent(s) and birth parent(s) shall both sign a written agreement for the exchange of information and pictures. The written agreement should be notarized. The agency does not have to provide this service. This service is to be provided if the whereabouts of the adoptive parent(s) and birth parent(s) are readily accessible. The words "readily accessible" eliminate the need for the agency to conduct a search such as those conducted when an adult adoptee applies for identifying information. A review of generally available resources, such as the telephone book or a current or recent location contained in the record satisfies the requirement.

#### **5.4.2 Redacting adoption records for non-identifying information**

Adult adoptees have the right to request and receive non-identifying background information about themselves and their birth family from their finalized adoption record. The Adoption Disclosure Specialist should prepare the non-identifying

information by first making a copy of the *preserved* adoption record. *Then the Adoption Disclosure Specialist will send the copy of the preserved record to the CPA. After receiving the copy, the CPA worker will closely review the documents, checking word for word, to redact any information that would lead to the identity of the birth family. When working with older adoption records, the CPA worker should check the CPA historical or in-house files to be certain that the entire adoption record is reviewed and included in the redacting process.*

The following identifying information shall be redacted from the record including any “trace” information that may lead to the identity of the biological family.

- Adoptee’s original surname (can leave in first and middle names)
- Names and addresses of birth family
- Names of places of employment for birth parents or other relatives (if military, delete branch i.e. navy, army)
- Names of schools or colleges attended by birth parents or other relatives
- Month, day of birth of birth parents and birth siblings (can leave in year)
- Place of birth parents and birth siblings (delete both city and state)
- Social security number of birth parents and other relatives
- Month and day of graduations, births, deaths, divorces of birth parents and other family members
- Name and location of maternity home
- Name and address of churches attended by birth family
- Name and address of doctors (including OBGYN) of birth parents
- Names and addresses, etc., of any individuals who knew a member of the birth family; this could include the doctor who delivered the child, foster parents with whom the child lived, or any third party involved in the placement
- Names of agencies involved with the birth parents, except the child-placing agency
- Any information in the record on other adoptees and foster children (if other adoptees in the same adoptive home as the one requesting information are birth siblings, their names can be left in)

- Locality and state on birth parents consent notarization (if different from location of circuit court where adoption is filed)
- On requests from adult adoptee, edit the home study on the adoptive parents unless the adoptive parents are deceased (a death certificate is required) or have given written notarized consent for the release of the home study. If one of the adoptive parents consents to the release of the home study or is deceased, but the other parent does not consent, information on the parent who does not give consent must be deleted. The following reports/documents are considered to be part of the home study on the adoptive parents.
  - Any report that only contains information on the adoptive family such as the home study and any questionnaire completed on themselves by the adoptive parents
  - Reference letters on the adoptive parents
  - Medical and psychological on the adoptive parents
  - AREVA Family's Registration Form
  - Criminal record checks on the adoptive parents
  - Child protective service checks on the adoptive parents
  - The section of the Report of Investigation or Home Study Report entitled "Suitability of the Petitioners to Adopt."
  - Any paragraph in the Report of Visitation that deals solely with the adoptive parents
  - The portion of the Commissioner's Confidential Report form pertaining to the adoptive parents.

#### 5.4.3 Releasing non-identifying information

Non-identifying information cannot be mailed to the adoptee. The adoptee may pick up the non-identifying information in person at the CPA conducting the search after showing identification. The CPA worker should make a copy of the identification card and attach it to a receipt for the adoptee to sign, indicating receipt of the non-identifying information.

If the adoptee lives out of the area, *the adoptee* may request that a child welfare agency or professional (such as a doctor, psychiatrist, psychologist, etc.) *closer to his location* receive the non-identifying information. The adoptee *should contact the nearby child welfare agency or professional to request this service. After confirming with the child welfare agency or professional that they will receive the information,*

*the adoptee will provide the CPA in writing the mailing address of the receiving child welfare agency or professional, and a written statement that authorizes the named party to receive the non-identifying information. Additionally, the receiving child welfare agency or professional must send a written statement to the CPA that they are willing to receive the information on behalf of the adoptee. The CPA will verify the identity of the adoptee before the release of non-identifying information.*

## 5.5 Disclosure of identifying information

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Identifying information is information that identifies the adoptee or birth family. It includes “trace” information that may lead to the identity of the birth family. *Identifying information on birth family members is only granted by the Commissioner or circuit court upon showing good cause.*

The following people may apply for disclosure of identifying information:

- Adoptees who are 18 or older may apply for disclosure.
- Birth parents and adult birth siblings, if the adoption was finalized on or after July 1, 1994, and the adopted person is at least 21 years of age.
- Adoptive parents of a minor child, if the adoption was finalized on or after July 1, 1994.
- In a parental placement adoption where consent was executed on or after July 1, 1994, the entire adoption record shall be open to the adoptive parents, the adoptee who is 18 years of age or older, and the birth parent who executed the written consent. However any criminal record checks for the adoptive parents, which show a criminal record conviction cannot be released.

The Commissioner has the responsibility for deciding whether information from closed adoption records is released. CPAs provide assistance to the Commissioner by conducting searches to locate birth family members. In cases in which an adult adoptee seeks disclosure about his/her birth parents and consent is not obtainable due to the death or mental capacity of the birth parents, the Commissioner shall release identifying information if the adult adoptee shows good cause as to why the information should be made available.

### 5.5.1 Request from an adult adoptee

When an adoptee inquires about his rights to access adoption records, the CPA should first verify that it was a Virginia adoption. If the CPA is unable to verify the adoption, the CPA should refer the caller to the Adoption Disclosure Specialist. The CPA should inform the adoptee that if a person was adopted in Virginia and is now 18 years or older, he has the right to initiate a search for birth family by filling out an

[Adoptee Application for Disclosure](#) form. The CPA should explain the process that occurs after the application is completed which is:

- The CPA involved in the adoption is designated to conduct the search.
- A CPA is allowed to charge a fee for the search. Refer to [Section 5.6](#) for guidance for the LDSS adoption fee structure.
- The CPA has 90 days to conduct the search. When the search is completed, the CPA will send a report to the Adoption Disclosure Specialist, recommending whether to grant or deny the disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.
- *If the CPA needs additional time to conduct the search, with verbal or written consent of the adult adoptee, the CPA may make a written request from the Adoption Disclosure Specialist for a **30, 60, or 90 day** extension.*
- Requests for identifying information can be denied if the birth family member is not located, deceased, or unwilling to authorize disclosure. In cases in which an adult adoptee seeks identifying information about his/her birth parents and consent is not obtainable due to the death or mental capacity of the birth parents, the Commissioner shall release identifying information if the adult adoptee shows good cause as to why the information should be made available.
- If the adoptee's request for identifying information is denied, the adoptee can petition the circuit court for disclosure. Virginia residents can petition the circuit court in the locality in which they reside; all others shall petition the Richmond City Circuit Court.

### 5.5.2 Request from birth parent or adult birth sibling

For adoptions finalized after July 1, 1994, when the adult adoptee is 21 years or older, the birth parents and adult birth siblings may request a search for the adoptee by filling out a [Birth Parent Application for Disclosure](#) or the [Adult Birth Sibling Application for Disclosure](#). The CPA should explain the process that occurs after the application is completed which is:

- The CPA that was involved in the adoption is designated to conduct the search.
- A CPA is allowed to charge a fee for the search. Refer to [Section 5.6](#) for guidance for the LDSS adoption fee structure.



- The CPA has 90 days to conduct the search. When the search is completed, the agency will send a report to the Adoption Disclosure Specialist at the VDSS Adoption Unit, recommending whether to grant or deny the disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.
- Requests for identifying information can be denied if the adoptee is not located, is deceased, or is unwilling to authorize disclosure.
- If the birth parent or adult birth sibling application is denied, the birth parent or adult birth sibling can petition the circuit court for disclosure. Virginia residents can petition the circuit court in the locality in which they reside; all others shall petition the Richmond City Circuit Court.

*For adoptions that were finalized prior to July 1, 1994, the birth family cannot request a search for the adoptee. The birth family has the right to send letters and pictures to the adoptee that will be maintained in the adoption case record and be given to the adoptee upon request.*

### **5.5.3 Request from adoptive parent**

The adoptive parent of a minor child may request identifying information on the birth family on any adoptions finalized on or after July 1, 1994. The adoptive parent should complete an [Adoptive Parent Application for Disclosure](#).

The worker should explain the process that occurs after the application is completed which is:

- The CPA that was involved in the adoption is designated to conduct the search.
- A CPA is allowed to charge a fee for the search. Refer to [Section 5.6](#) for guidance for the LDSS adoption fee structure.
- The CPA has 90 days to conduct the search. When the search is completed, the agency will send a report to the Adoption Disclosure Specialist at the VDSS Adoption Unit, recommending whether to grant or deny the disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.
- Requests for identifying information can be denied if the birth family is not located, is deceased, or is unwilling to authorize disclosure.
- If the adoptive parent application is denied, the adoptive parent can petition the circuit court for disclosure. Virginia residents can petition the circuit court

in the locality in which they reside; all others shall petition the Richmond City Circuit Court.

#### 5.5.4 Adding information to the closed adoption record

Birth parents, birth siblings and birth family members have the right to send letters to be included in the adoptee's adoption record. Sometimes birth family members will call or write to provide updated information for the adoption record. The CPA should explain the rights of the adoptive parents and the adult adoptee for obtaining information from a closed adoption file. This will enable the family to understand the importance of sending letters to update the adoption record of current address and telephone number. The worker can update the information in the CPA file and at the state level by advising the Adoption Disclosure Specialist, VDSS *Adoption* Unit of the updates.

#### 5.5.5 CPA responsibilities in a disclosure search

Upon receipt of the Application for Disclosure from the adult adoptee, birth parent, birth sibling, or adoptive parent, the Adoption Disclosure Specialist in the *Adoption* Unit sends a Letter of Appointment, a copy of the Application for Disclosure and a copy of the adoption record to the agency that will be conducting the search.

##### 5.5.5.1 Actions upon receipt of a Letter of Appointment

Upon receiving a Letter of Appointment, the designated agency conducting the search shall:

- Attempt to locate and advise the adoptee, adoptive parents, and birth family members about whom the applicant wants identifying information.
- Use discretion in contacting relatives or persons who know the birth parent/sibling and can aid in the search. The confidential nature of the inquiry is not to be revealed unless it is clear from the record or other information that the contacted person knows the circumstances surrounding the child's placement and adoption.
- Conduct the search within **90 days** of receiving the Letter of Appointment. *If the CPA needs additional time to conduct the search, with consent of the person requesting the search, the CPA may request a **30, 60 or 90 day** extension. The CPA must submit a written request to the Adoption Disclosure Specialist prior to the search deadline. The request for extension should include the reason for the request and extension timeframe (**30 day, 60 day or 90 day**) the CPA is requesting.*
- Send a [Report of Inquiries](#) to the Commissioner, describing the results of the attempt to locate and advise the birth family members of the

Application for Disclosure. No identifying information is to be disclosed to the adoptee, the family, or any attorney representing the parties without proper authorization from the Commissioner.

- Document the resources used to locate the birth family members in the agency's report in those cases where agency efforts were unsuccessful.
- Provide updated information in the agency's report if the birth family members about whom the adoptee wants identifying information can be located. The agency's report shall include updated non-identifying information about the birth parent. The report should also indicate the parent's wishes regarding having his/her identity disclosed and being contacted by the adoptee.
- Include in the agency's report a recommendation regarding disclosure based on the findings.
- Include a statement if there is a fee. The agency's report shall indicate the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.
- Provide the identifying information to the adoptee, if disclosure of identifying information is granted by the Commissioner.

#### **5.5.5.2 Searching for information**

There is no correct sequence of methods that work for every case. A combination of search techniques should be tried and use of a person locator tool is permissible. A worker should consider multiple avenues to find information for the search and may have to go back a generation or more.

- Review the entire adoption record, from start to finish, gathering all information possible, looking for clues about the people being searched for, paying close attention to detail, and noting any piece of information that could be significant. Workers should note full names (including variations in spellings), nicknames, addresses, relatives' names, dates of birth, professions or information on employment, locations mentioned (such as another state), a physical description of the birth parents if mentioned, any hobbies they may have had, and handwritten notations in the margins or in the file. Even information that may seem trivial may be significant if it will assist the worker in the search.
- *When a birth parent is not named in the adoption record, the agency worker should obtain a copy of the child's original birth certificate. For*

*children born in Virginia, the Adoption Disclosure Specialist may assist the agency in obtaining a copy of the original birth certificate from the Bureau of Vital Statistics.*

- As most searches are initiated by the adult adoptee, contact the adoptee. To assist in gathering information from the adoptee, a questionnaire format will assist the worker in staying focused and gathering information that may be helpful for the search. The following questions are a guide:
  - What has prompted you to search? What do you hope to find?
  - Describe your relationship with your family, both your adoptive family and any present family structure.
  - How and when did you find out you were adopted? How was the subject handled by your family?
  - What family members or friends are aware you are doing a search? What was their reaction to the news?
  - What information about you would you share with your birth parents?
  - If we are able to locate your birth relatives, but they are unwilling to have their identity disclosed, what information would you like to obtain from them? (List specific questions that the adoptee would like to have asked.)
  - If we are able to locate your birth relatives, and they are willing to have contact with you, how would you prefer your first contact to occur (e.g., via phone, email, letter, face-to-face)?
- If the search is being conducted trying to locate the adult adoptee for the birth parent or birth sibling application for disclosure, contact the birth parent or adult birth sibling developing questions that are similar in nature to those suggested in the above guide.
- Try to locate and search any in-house files that are related to the adoption record. Check to see if there are any other files related to the case. These could be siblings' records or records that are now in agency archives. Search these records.
- Search any logs or books that your agency may have to track inquiry calls made by birth family, adoptees, or adoptive parents.

- Check in-house databases.
- Initiate search in a person locator tool.
- Additional searchable databases:
  - [PIPL](#)
  - [Ancestry.com](#)
  - [RootsWeb](#)
  - [411.com](#)
  - [USGenWeb Project](#)
  - [All Area Codes](#)

#### **5.5.5.3 Expediting a disclosure search**

There may be an occasion where a search should be expedited. An example of this would be for a medical emergency or other situation of an emergency nature. Such issues should be brought to the attention of the Adoption Disclosure Specialist in the VDSS *Adoption* Unit, so the search process can be expedited prior to the final disposition.

#### **5.5.5.4 Report of Inquiries**

The CPA shall send a Report of Inquiries to the Adoption Disclosure Specialist in the VDSS *Adoption* Unit describing the results of the attempt to locate and advise the adoptee, birth family, adoptive family and adult birth siblings depending on the Application for Disclosure.

- The CPA's report shall be in the format prescribed by the Commissioner and shall not include identifying information on the birth family.
- No identifying information should be disclosed to the adoptee, birth family parents, or birth family members without proper authorization from the Commissioner.
- Resources used to locate the birth family members should be fully documented in the agency's Report of Inquiries in those cases where agency efforts were unsuccessful.
- If the birth family members about whom the adoptee wants identifying information can be located, the Report should also state the biological

parent's wishes regarding having his identify disclosed and being contacted by the adoptee.

- The CPA's Report of Inquiries shall include a recommendation regarding disclosure based on the findings including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family.
- If there is a fee, the agency's report shall include a statement indicating the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.

The CPA shall use the following recommendations for disposition in the Report of Inquiries:

- **Contact Wanted.** If contact is wanted, the worker should state in the report that the person was found and wants contact, or consents to the disclosure of their identifying information. The worker should state that the agency recommends the release of identifying information
- **Denial.** If contact is not wanted, the report should state that the person was found but does not consent to the disclosure of his identifying information. The worker should state that the agency recommends that disclosure of information be denied.
- **Birth Father Unknown.** If the worker cannot find the birth father's name in the adoption record, then the report should state that the birth father is not named, or not identified. The worker should state that disclosure of information on the birth father be denied.
- **Birth Siblings.** If birth parents had no other children, the worker should state that there are no adult birth siblings, or no known adult birth siblings. If the birth parents had other children that are currently minors, under the age of 18, they should be mentioned in the report; however, the adoptee is only able to receive information about adult birth siblings.

The birth parents have the right to decide whether they want to be the ones to tell their other children about the adoptee first, or if they are comfortable with letting the adoptee contact birth siblings directly. If the birth parent is comfortable letting birth siblings have direct contact, the birth siblings should be contacted if the birth parent agrees, then the worker should recommend that the sibling's information be released to the adoptee.

If the birth parent is not comfortable with direct contact but wants to notify the other children first, the worker should state that disclosure of information on the adult birth siblings be denied at this time.

- **Ongoing Search.** If one person is found and wants contact, but another person inquired about in the adoptee's application is not yet found, then the report should state that the search disclosure is granted for one but the search for the other person is continuing.
- **Search No Longer Wanted.** When an adoptee who applied to do a search changes his mind and no longer wishes to continue with the search, the worker should make the recommendation that the search case be closed.
- **Consult with the Adoption Unit.** Depending on circumstances discovered during the search, the worker will need to consult with the Adoption Disclosure Specialist for direction about what would be appropriate for the report.

#### 5.5.5.5 Waiting for the final disposition

If an adoptee, birth parent, or birth sibling has an open case with the CPA, he might call to obtain a status on the case. The worker should advise the applicant that work is being done on the search (e.g., phone calls made, letters sent out) and that the worker is continuing to look for other leads on the case. If asked, the worker may provide to the party search resources. [International Soundex Reunion Registry](#) is the largest and oldest registry available.

The [Child Welfare Information Gateway](#) website has factsheets of information and resources that can be provided to birth parents, adopted persons, and others interested in learning more about the process of searching for birth relatives.

#### 5.5.5.6 Final disposition

The Commissioner makes the final decision about the release of identifying information after a review of the Report of Inquiries. The Adoption Disclosure Specialist will send the CPA and applicant a letter of Final Disposition. *The Final Disposition letter provides the search results and the Commissioner's decision about disclosure.*

If the final disposition indicates that the application for disclosure is granted, the CPA shall share the identifying information with the adoptee, birth parent, adult birth sibling, or adoptive parent.

If the final disposition is to deny the application for disclosure, the adoptee, birth parent, adult birth sibling, or adoptive parent must be told of the right to file a petition with the circuit court.

The petition is filed in the Richmond City Circuit Court (which is the court where VDSS is located) if the adoptee lives out of state or the circuit court in the locality where the adoptee resides if the adoptee lives in Virginia.

## 5.6 Charging a fee

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Virginia law allows fees to be charged for adoption searches.

Fees are to be determined based on income, family size, and indirect costs to the agency or average costs. The fee schedule is established by the State Board of Social Services.

### 5.6.1 Fee schedule for adoption searches

The formula is as follows:

The LDSS fiscal manager should calculate an indirect cost factor that covers expenses other than the direct worker's salary and benefits (such as overhead expenses).

The LDSS will record the time the worker spends providing the service. The time spent is to be multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits) and the indirect costs.

Determine applicant's family size. Include all persons for whom the applicant and his or her spouse are responsible.

Determine the applicant's gross monthly income. Include all income available to the family. Accept the applicant's declaration of income.

Determine the applicant's percent of median income using the [state median income \(SMI\) chart](#). *The SMI chart is available at the VDSS internal website (SPARK) and is updated each year. The updated SMI is issued by a broadcast each year prior to September 1<sup>st</sup>.*

If income falls between two percentages, use the lower figure. Reduce or waive the fee if the LDSS finds circumstances that affect the applicant's ability to pay, such as heavy debt, unusual medical or educational expenses, or heavy financial support of relatives.

The LDSS shall report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds shall be



adjusted to reflect the state and federal share of income collected. Using the percentage of fee scale shown below, determine the fee assessed.

<u>Percentage of Median Income</u>	<u>Calculated Fee to be Charged</u>
50% and below	0% (No charge)
60%	10%
70%	25%
80%	50%
90%	75%
100%	100%

### **5.6.2 Determination of direct costs**

In determining direct costs, the CPA providing the service has the option of using the actual salary and benefits of the worker performing the service, an average of the salary and benefits, or the minimum salary and benefits.

If the actual salary and benefits of the worker performing the service is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging the customer.

If some form of averaging is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed. The method of averaging, which appears to conform to the intent of the statute which talks about the actual cost of the service, would be to average the actual salaries and benefits of the workers performing the services.

The agency may use 20 hours as an average, multiply this by the agency hourly costs, factor in family size and income, and charge the applicant that amount in advance. If the search is completed in less than 20 hours, the agency would return the unexpended funds.

If the search is not completed in 20 hours, the agency should ask the applicant if the agency should continue the search at the worker's hourly cost (written permission from the applicant is mandatory) or the agency can continue the search but not charge the applicant more than the initial estimated fee which is based on 20 hours of work (this is an option because guidance allows an agency to recommend waiving all or part of the fee in unusual circumstances).