



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services and Children and Youth

Rule Contact Name and Contact Information: Michael Lynch, 614-466-8376

Regulation/Package Title (a general description of the rules' substantive content):

Title IV-E Adoption Assistance, Administration, Case Record Requirements, and Reimbursement of Nonrecurring Expenses.

Rule Number(s): OAC 5101:2-49-01, OAC 5101:2-49-17 and OAC 5101:2-49-21.

Date of Submission for CSI Review: 6/21/2024

Public Comment Period End Date: 6/28/2024

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/ 3 rules (FYR? YES)

Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

These rules are being filed to meet FYR and the amendments pose no adverse impact to businesses.

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-49-01 entitled "**Administration of the Adoption Assistance (AA) Program**" outlines the AA administrative requirements for public children services agencies (PCSA) and private child placing agencies (PCPA). New language added to the rule in paragraph (B) due to revisions on the JFS 01451 "Title IV-E Adoption Assistance Application" to align with the adoption form JFS 01667 "Adoption Information Disclosure." New language added to the rule in paragraph (F)(2)(c) to include a copy of the JFS 01666 "Permanent Surrender of Child" being provided by the PCPA. Minor grammatical and spelling errors were corrected throughout the rule.

OAC rule 5101:2-49-17 entitled "**Case Record Requirements for Title IV-E Adoption Assistance (AA)**" outlines the case record requirements. Inclusion of adoption forms JFS 01667 "Adoption Information Disclosure" and JFS 01699 "Prefinalization Adoption Assessment Report" added to paragraph (B) to ensure notification of AA to adoptive parents. Minor grammatical and spelling errors were corrected throughout the rule.

OAC rule 5101:2-49-21 entitled "**Reimbursement of Title IV-E Nonrecurring Adoption Expenses for a child with Special Needs**" outlines the requirements for eligibility for nonrecurring adoption expenses and the reimbursement of the nonrecurring adoption expenses. New Language was added to paragraph (C) to include the Nonrecurring Adoption Expenses reimbursement increase from one

thousand to two thousand dollars. Minor grammatical and spelling errors were corrected throughout the rule.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Statutes 5101.141 and 5101.11 grant rule writing authority and are the statutes the rule implements or amplifies.

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

Section 473 [42 U.S.C. 673] (a)(1)(A) of the Social Security Act requires the regulation of the Adoption Assistance Program.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This rule does not exceed the federal requirement.

6. What is the public purpose for this regulation (i.e., why does the agency feel that there needs to be any regulation in this area at all)?

For rule 5101:2-49-01, Ohio Department of Children and Youth (DCY) is the state agency that is responsible for administering the Title IV-E program. In Ohio the Title IV-E program is county administered by the Public Children Service Agencies (PCSAs) and state supervised. Under the authority of Ohio Revised Code (ORC) 5101.141, Ohio Department of Children and Youth (DCY) drafts standards for the Title IV-E agencies to administer the program. It is the responsibility of the Private Child Placing Agencies (PCPAs) who hold permanent custody of a child to inform all adoptive parent(s) about the adoption assistance program and provide the PCSAs with - 4 - documents to help them determine adoption assistance eligibility for a child with special needs.

For rule 5101:2-49-17, the purpose is to ensure that all Private Child Placing Agencies (PCPAs) who hold permanent custody of a child are required to provide the Public Children Services Agency (PCSA) with verification of dates of the documents needed in the adoption assistance case record, and for auditing purposes these documents shall be provided upon request.

For rule 5101:2-49-21, the purpose is to ensure that all Private Child Placing Agencies (PCPAs) and Private Non-Custodial Agencies (PNAs) inform the adoptive parent(s) about the nonrecurring adoption assistance program and to provide the PCSA with the documentation required by OAC 5101:2-49-17 (Case Record Requirements for Title IV-E

Adoption Assistance (AA) and OAC 5101:2-49-21 so the PCSA can determine eligibility for the nonrecurring adoption reimbursement.

7. How will the agency measure the success of this regulation in terms of outputs and/or outcomes?

5101:2-49-01, The success is measured in great part by and through the language of this rule that ensures the Adoption Assistance (AA) program is administered correctly and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; the proper placement of children is being carried out; by improving outcomes for children in need of a permanent family; are improving the number of successful adoptions; and ensures adoption assistance, if eligible, is provided based on federal guidelines from section 473 of the Social Security Act.

5101:2-49-17, the success is measured in great part by and through the language of these rules that ensure the Adoption Assistance program, and the reimbursement of Nonrecurring Adoption expenses is administered correctly, and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; through the proper placement of children; by increasing the number of successful adoptions.

Rule 5101:2-49-21, the success is measured in great part by and through the language of these rules that ensure the Adoption Assistance program, and the reimbursement of Nonrecurring Adoption expenses is administered correctly, and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; through the proper placement of children; by increasing the number of successful adoptions.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No. The rule contained in this rule package is not being submitted pursuant to R.C, 101.352, 101.353, 106.032, 121.93, or 121.931.

Development of the Regulation

9. Please list the stakeholders included by the agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Through a collaborative partnership with county partners, adoption advocates, adoptive parents, private attorneys, juvenile court system, Child Welfare training programs, and Public Children Services Organization (PCSAO) from across Ohio, Ohio Department of

Children and Youth (DCY) Title IV-E staff worked with multiple counties to have diverse input with the amendment of the adoption assistance program rules. In addition to amending chapter 49 rules, the workgroup, Strengthening and Standardizing Adoption Assistance (AA) Negotiation Process and the internal Adoption Subsidies workgroup was created to specifically look at Ohio's adoption negotiation process and to develop a standardized adoption negotiation process across the state. The external workgroup began on September 26, 2023. This workgroup met monthly virtually with a final external workgroup meeting that was held on May 15, 2024. The internal and external workgroup worked to finalize actionable recommendations to improve the negotiation process across the state of Ohio.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the agency?

These rules were reviewed and revised with the interested party's involvement and language was established that was agreeable to all through two clearance processes.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not Applicable.

12. What alternative regulations (or specific provisions within the regulation) did the agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

There are no alternative regulations because Ohio Department of Children and Youth (DCY) is required to administer the Title IV-E adoption assistance program pursuant to section 473 of the Social Security Act and 5101.141 of the Ohio Revised Code.

13. What measures did the agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There is no duplication as these rules are specific to the administration of the adoption assistance program and no other rules address these specific issues. These rules were reviewed by our county partners, Public Children Services Agency Organization (PCSAO), Federal contacts, legal staff, and staff at Ohio Department of Children and Youth (DCY) to ensure they do not duplicate any existing Ohio regulations.

14. Please describe the agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Ohio Department of Children and Youth (DCY) is following federal guidelines as outlined in section 473 of the Social Security Act. The adoption assistance program is monitored by Ohio Department of Children and Youth (DCY) through case record reviews to ensure compliance

with the rule standards. This process is measured by the number of adopted children determined eligible for the adoption assistance program that find permanent homes.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

There are 58 Private Child Placing Agencies (PCPAs) in Ohio that will be impacted by this.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.)

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

These rules are being filed to meet FYR and the amendments pose no adverse impact to businesses.

For OAC 5101:2-49-01, if the PCPA's do not provide the information about the adoption assistance program to the adoptive parent(s), the parent(s) will not be informed about the adoption assistance program that can assist them in incorporating an adopted child into their family. The adverse impact includes the time and money involved in providing copies of the JFS 01616 (Social and Medical History), JFS 01673 (Assessment for Child Placement), JFS 01692 (Application for Adoption of a Foster Child or Sibling Group) and other information to the PCSA and providing adoption assistance information to each person that inquires about adoption.

For OAC 5101:2-49-17, if the PCPAs do not provide the documentation required in this rule, the PCSA can't determine eligibility for the adoption assistance program that will assist the adoptive parent(s) in caring for the adopted child. This adverse impact includes time and money involved in providing copies of various forms and documents outlined in the rule to the PCSA.

For OAC 5101:2-49-21, The existing adverse impact on unchanged parts of the rule includes time and money involved in providing nonrecurring adoption expense reimbursements information to the adoptive parent(s).

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

N/A

17. Why did the agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Ohio Department of Children and Youth (DCY) is driven by section 473 of the Social Security Act to administer the adoption assistance program.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

There are no apparent alternative means of regulation for compliance to rules 5101:2-49-01, 5101:2-49-17 and 5101:2-49-21.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Ohio Department of Children and Youth (DCY) does not levy any fines or penalties in rules 5101:2-49-01, 5101:2-49-17 and 5101:2-49-17, therefore DCY does not anticipate applying Chapter 119.14 waivers for covered entities under the rules.

20. What resources are available to assist small businesses with compliance of the regulation?

The required forms are available on Ohio Department of Children and Youth (DCY) website under forms on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E). There is also a JFS 01985 "Adoption Subsidies Guide" (rev. 03/2024) that explains programs that are available for adopted children.

5101:2-49-01 **Administration of the Title IV-E adoption assistance (AA) program.**

(A) The public children services agency (PCSA) ~~shall~~is to be responsible for the administration of the AA program. Administrative expenditures can be claimed for reimbursement only if AA is a direct responsibility of the PCSA. The PCSA ~~shall~~is to be responsible for:

- (1) Ensuring the proper administration of funds, allocated or reimbursed.
- (2) Determining initial and continuing eligibility for AA program services.
- (3) Maintaining a separate AA case record for each program eligible child for whom a PCSA has entered into an AA agreement.
- (4) Service planning and increasing the opportunities for adoption of children with special needs who are free for adoption by:
 - (a) Encouraging and increasing the opportunities for adoption of children with special needs who are free for adoption.
 - (b) Ensuring that all possibilities for an adoptive home without the assistance of AA are explored.
 - (c) AA case management.
 - (d) Pre-finalization and the provision or referral for post-finalization adoption services.

(B) Prior to finalization of the adoption, the PCSA ~~shall~~is to provide and assist the adoptive parent(s) of a child placed by that PCSA and eligible for AA with a JFS 01451 "Title IV-E Adoption Assistance Application" (~~rev. 12/2015~~) and the JFS 04059 "Explanation of State Hearing Procedures," (~~rev. 1/2015~~).

(1) Although the adoptive parent(s) may have declined an adoption subsidy during the completion of a JFS 01667 "Adoption Information Disclosure," the Title IV-E agency is to assist the adoptive parent(s) with the completion of the JFS 01451.

(2) A completed and signed application is to be on file in the child's AA case record in accordance with rule 5101:2-49-17 of the Administrative Code.

(C) The adoptive parent(s) may apply for AA only after both of the following have occurred.

- (1) The homestudy has been approved in accordance with rules 5101:2-48-11, 5101:2-48-11.1, 5101:2-48-12, and 5101:2-48-12.1 of the Administrative Code.
 - (2) A child has been matched with an adoptive parent(s) in accordance with rule 5101:2-48-16 of the Administrative Code by an agency with such authority. If the child is placed for adoption in Ohio from another state, the Ohio agency shall use the other state's documentation to meet the matching requirements.
- (D) A stepparent may apply for AA only if a biological parent(s) is not present in the home due to death or divorce or has failed to visit or maintain contact with the child for more than ninety ~~calendar~~ days pursuant to section 2151.011 of the Revised Code.
- (E) Prior to the finalization of adoption, the adoptive parent(s) shall submit the AA application to one of the following, as appropriate:
- (1) The PCSA holding permanent custody of the child.
 - (2) The PCSA located in the county in which the adoptive parent(s) resides when one of the following applies:
 - (a) The child meets the eligibility requirements for Title XVI supplemental security income (SSI) benefits and the child is not in the custody of a PCSA.
 - (b) The child is placed by a private child placing agency (PCPA) having permanent custody of the child.
 - (c) The child is placed for adoption in Ohio from another state and that state's PCSA does not have responsibility for placement and care/custody of the child.
 - (3) For a child who is placed for adoption from Ohio into another state and the child is not in the permanent custody of an Ohio PCSA, the adoptive parent(s) shall apply at the Title IV-E agency in the state the adoptive parent(s) resides. The Title IV-E agency in the adoptive parent's state of residence shall be responsible for determining the child's eligibility for AA, and if the child is eligible, entering into the AA agreement, and issuing the AA payment.
- (F) If an Ohio PCPA holds permanent custody of a child as a result of a JFS 01666 "Permanent Surrender of Child," (rev. 10/2013), the following requirements shall be met:

- (1) Prior to finalization of the adoption, the PCPA ~~shall~~ is to ensure that the adoptive parent(s) receives information about AA and an AA application, including when the adoptive parent(s) declines AA.
- (2) At the time of application by the adoptive parent(s), the PCPA ~~shall~~ is to provide the PCSA with the following:
 - (a) A copy of the JFS 01616 "Social and Medical History" ~~(rev. 6/2009)~~ completed on the child for whom the subsidy is being requested.
 - (b) A copy of one of the following homestudies:
 - (i) JFS 01673 "Assessment for Child Placement (homestudy)." ~~(rev. 12/2014).~~
 - (ii) A copy of the JFS 01692 "Application for Adoption of a Foster Child or Sibling Group." ~~(rev. 12/2014).~~
 - (iii) The out of state approved homestudy forms for an adoptive parent(s) residing out of state.
 - (c) A copy of the JFS 01666 "Permanent Surrender of Child."
- (G) The PCSA ~~shall~~ is to complete the AA eligibility determination in ~~the statewide automated child welfare information system (SACWIS)~~ Ohio comprehensive child welfare information system (Ohio CCWIS) and approve or deny the application within thirty days after a completed application and all ~~required~~ needed documentation ~~are~~ is provided to the PCSA.
- (H) The PCSA may obtain written verification and information to assist in determining AA eligibility from a variety of sources including:
 - (1) The social security administration.
 - (2) The agency that has held permanent custody of the child and placed the child for adoption.
 - (3) The court records.
 - (4) The adoptive parent(s).
- (I) The PCSA ~~shall~~ is to request verification from the adoptive parent(s) and have the adoptive parent(s) complete the ODM 06612 "Health Insurance Information Sheet"

~~(rev. 9/2016)~~ at any time the adoptive parent(s) acquires health care insurance coverage for the child.

(J) In accordance with federal requirements, the PCSA ~~may~~is not to add any language to the AA agreement that makes the agreement subject to the availability of funds.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	5101.141, 5101.11
Rule Amplifies:	5101.11, 5101.141
Prior Effective Dates:	01/01/1983, 01/01/1985 (Emer.), 04/01/1985, 05/22/1985 (Emer.), 08/12/1985, 04/01/1986 (Emer.), 07/01/1986, 07/02/1987, 09/01/1988, 09/01/1992, 05/01/1998, 07/01/2000, 02/24/2002, 01/01/2007, 04/01/2010, 12/15/2011, 07/01/2014, 08/01/2019

5101:2-49-17 **Case record requirements for Title IV-E adoption assistance (AA).**

- (A) The public children services agency (PCSA) shallis to maintain a separate case record for each AA case.
- (B) The case record shallis to contain documentation which supports the PCSA's actions in determining eligibility for AA. The case record shallis to include the following information, when applicable:
- (1) A copy of the completed and signed JFS 01451 "Title IV-E Adoption Assistance Application," (~~rev. 12/2015~~).
 - (2) A copy of the AA eligibility determination in ~~the statewide automated child welfare information system (SACWIS)~~ Ohio comprehensive child welfare information system (Ohio CCWIS).
 - (3) A copy of each signed JFS 01451-B "Title IV-E Adoption Assistance Annual Assurance of Legal Responsibility, School Attendance and Eligibility for Continued Medicaid Coverage," (~~rev. 7/2019~~).
 - (4) A copy of the PCSA's petition to the court which led to the child's removal from the specified relative.
 - (5) A copy of the court order which resulted in the child's removal from a specified relative, and which contains a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child and that placement is in the best interest of the child.
 - (6) A copy of the signed JFS 01645 "Agreement for Temporary Custody of Child" (~~rev. 4/2006~~) along with a copy of a court determination that continuation in the home would be contrary to the welfare of the child and that the placement is in the best interest of the child.
 - (7) A copy of the court order committing the child to the permanent custody of an Ohio PCSA or Ohio private child placing agency (PCPA), or a copy of the JFS 01666 "Permanent Surrender of Child," (~~rev. 10/2013~~). In cases where the child initially entered permanent custody as the result of the execution of a JFS 01666, there ~~must also~~ is to be a copy of a court determination that continuation in the home would be contrary to the welfare of the child and that the placement is in the best interest of the child.

- (8) A copy of the signed JFS 01654 "Adoptive Placement Agreement," ~~(rev. 2/2017)~~.
- (9) Initial child study inventory.
- (10) A copy of the JFS 01616 "Social and Medical History," ~~(rev. 6/2009)~~.
- (11) A copy of the JFS 01673 "Assessment for Child Placement (Homestudy)" ~~(rev. 12/2014)~~ or another state's approved child with special needs homestudy.
- (12) A copy of the JFS 01673A "Ohio Department of Job and Family Services Child Characteristics Checklist for Foster Care and/or Adoption," ~~(rev. 12/2006)~~.
- (13) A copy of the JFS 01689 "Documentation of the Placement Decision-Making Process," ~~(rev. 4/2017)~~.
- (14) A copy of the JFS 01692 "Application for Adoption of a Foster Child or Sibling Group," ~~(rev. 12/2014)~~.
- (15) A copy of the JFS 01667 "Adoption Information Disclosure."
- (16) A copy of the JFS 01699 "Prefinalization Adoption Assessment Report."
- ~~(15)~~(17) If the basis for determination of AA eligibility is meeting supplemental security income (SSI) eligibility requirements, a copy of the SSI voucher or a copy of any other official documentation verifying SSI eligibility.
- ~~(16)~~(18) If the basis for determination of AA eligibility is ADC-relatedness, copies of all documentation used for the determination.
- ~~(17)~~(19) The eligibility determination for the child of a minor parent who is eligible for a Title IV-E foster care maintenance (FCM) payment.
- ~~(18)~~(20) If the basis for determination for AA eligibility is that the child was placed in the custody of the PCSA as a result of a JFS 01645 or JFS 01666, then copies of all documentation used for determination.
- ~~(19)~~(21) A copy of the ODM 06612 "Health Insurance Information Sheet" ~~(rev. 9/2016)~~ as completed by the adoptive parent(s).
- ~~(20)~~(22) A copy of the adoption petition filed with the court.
- ~~(21)~~(23) A copy of the adoption finalization.

- ~~(22)~~(24) A copy of the signed JFS 01453 "Title IV-E Adoption Assistance Agreement" ~~(rev. 7/2019)~~ between the adoptive parents and the PCSA and any amendments.
- ~~(23)~~(25) Documentation of current eligibility for AA, and in a prior finalized adoption.
- ~~(24)~~ Copies of each signed JFS 01451-B.
- ~~(25)~~(26) A copy of the documentation evidencing repayment of any identified AA overpayment.
- ~~(26)~~(27) A copy of all state hearing, administrative appeal, and judicial review documentation.
- ~~(27)~~(28) A copy of the JFS 01470 "Title IV-E Adoption Assistance State Mediation Conference Request," ~~(rev. 7/2019)~~.
- ~~(28)~~(29) A copy of the interstate compact and adoption medical assistance forms.
- (C) For applications received from an adoptive parent(s) who resides out of state, the case record ~~shall~~is to include a copy of forms which contain, at a minimum, the information ~~required~~needed by the JFS 01673, JFS 01692 and child study inventory.
- (D) In order to protect confidentiality of adoption records, the dates of the documents listed in paragraphs ~~(B)(3)~~(B)(4) to ~~(B)(6)~~(B)(7) of this rule may be included in the AA case record in place of copies of the court order, JFS 01645, JFS 01666, or petition for adoption. For auditing purposes these documents ~~shall~~are to be provided upon request. Provision of these dates by the PCSA ~~shall~~is to be recognized as evidence that copies of the legal records exist. The following information ~~shall~~is to be provided on the ~~child~~children services agency (CSA), PCPA's or PCSA's letterhead.
- (1) Each document ~~shall~~is to be clearly identified.
 - (2) The effective date of each record.
 - (3) The PCSA representative's signature, confirming that the record is on file at the PCSA.
- (E) When applicable, the PCSA ~~shall~~is to contact the PCPA which placed the child for adoption in order to obtain verification of the date of the documents listed in paragraph (B) of this rule. Documentation of these dates by the PCPA ~~shall~~are to be recognized as evidence that copies of the legal records exist. For auditing purposes

these documents ~~shall~~is to be provided upon request. The following information ~~shall~~is to be provided on the PCPA's letterhead.

- (1) Each record ~~shall~~is to be clearly identified.
 - (2) The effective date of each record.
 - (3) The PCPA representative's signature confirming that the record is on file at the PCPA.
 - (4) Pre-adoptive identifying information which is needed to establish eligibility for AA.
- (F) The PCSA and PCPA ~~shall~~are to use the pre-adoptive identifying information when contacting the public assistance benefits eligibility or referral specialists to request pertinent information on file, or when contacting the social security administration to request pertinent information about the child's eligibility for SSI. The PCSA and PCPA ~~shall~~are not to provide any information about the child's new identity or present situation.
- (G) Pursuant to rule 5101:2-33-23 of the Administrative Code the adoption assistance case record ~~shall~~is to be permanently retained.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	5101.141, 5101.11
Rule Amplifies:	5101.11, 5101.141
Prior Effective Dates:	01/01/1983, 04/01/1986 (Emer.), 07/01/1986, 07/02/1987, 09/01/1988, 05/01/1994, 05/01/1998, 01/01/2007, 12/15/2011, 07/01/2014, 01/10/2018, 08/01/2019

5101:2-49-21 **Reimbursement of Title IV-E nonrecurring adoption expenses
for a child with special needs.**

(A) The following definitions are applicable to this rule and supersede any definition contained in rule 5101:2-1-01 of the Administrative Code.

(1) "Nonrecurring adoption expenses" are reasonable and necessary adoption fees, court costs, attorney fees, and in accordance with paragraph (A)(2) of this rule, other expenses directly related to the legal adoption of a child with special needs, as defined in rule 5101:2-49-03 of the Administrative Code. These expenses cannot be incurred in violation of state or federal law and cannot be reimbursed from other sources or funds.

(2) "Nonrecurring other expenses directly related to the legal adoption of a child with special needs" as specified in paragraph (A)(1) of this rule refers to the cost of the adoption incurred by or on behalf of the adoptive parent(s) and for which the adoptive parent(s) carries the ultimate liability for payment. These expenses include costs related to:

(a) The adoption homestudy.

(b) Health and psychological examinations.

(c) Supervision of the placement prior to the adoption finalization.

(d) Reasonable cost of transportation, lodging, and food for the child and/or adoptive parent(s) when necessary to complete the placement or adoption process.

(B) A public children services agency (PCSA), private child placing agency (PCPA), or private non-custodial agency (PNA) is to notify anyone inquiring about adoption services through the agency of the availability of funds for the reimbursement of nonrecurring adoption expenses and the application process.

(C) The PCSA is to enter into an agreement with the adoptive parent(s) of a child with special needs for the payment of nonrecurring adoption expenses for which the parent(s) has not otherwise been reimbursed, not to exceed ~~one~~two thousand dollars for each child.

(D) The PCSA, PCPA, or PNA is to inform an adoptive parent(s) who inquires about adoption services through the agency that the JFS 01421 "Application for Reimbursement of Title IV-E Nonrecurring Adoption Expenses" is to be submitted

to the appropriate PCSA and approved prior to the adoption finalization or disruption prior to the adoption finalization, if applicable. The JFS 01421 cannot be considered for approval retroactively.

- (E) The adoptive parent(s) and the PCSA as specified in paragraphs (L) to (O) of this rule are to sign the JFS 01438 "Agreement for Payment or Reimbursement for Title IV-E Nonrecurring Expenses Incurred in the Adoption of a Child with Special Needs-" prior to adoption finalization or disruption prior to adoption finalization, if applicable. A final decree of adoption by a foreign country constitutes adoption finalization. The JFS 01438 cannot be entered into after adoption finalization.
- (F) The PCSA is to not consider the race, color, or national origin of an adoptive family or of the child for whom a family has indicated an interest in adopting, when entering into a JFS 01438.
- (G) If siblings are placed for adoption, either separately or together, each child is to be treated as an individual. A separate JFS 01421 and JFS 01438 is to be executed for each child.
- (H) The PCSA is to not apply an income eligibility requirement (means test) to the adoptive parent(s) in determining whether payment or reimbursement for nonrecurring adoption expenses are to be made.
- (I) The adoptive parent(s) is to submit to the PCSA a request for payment or reimbursement and proof of the expenditures for nonrecurring expenses incurred in the adoption of a child with special needs within two years of the adoption finalization or disruption prior to adoption finalization, if applicable.
- (J) In order for a PCSA to enter into an agreement for the reimbursement of nonrecurring adoption expenses, the child is to be determined a child with special needs prior to the adoption finalization or disruption prior to adoption finalization as defined in rule 5101:2-49-03 of the Administrative Code. The child need not meet other categorical eligibility requirements of Title IV-E adoption assistance.
- (K) If the only special needs factor is the child has been determined to be at substantial risk, with no manifestation of a special needs factor, the child is eligible for nonrecurring adoption assistance with the exclusion of international adoptions.
- (L) If the PCSA and the adoptive parent(s) have completed a JFS 01453 "Title IV-E Adoption Assistance Agreement" the application for reimbursement of nonrecurring adoption expenses is to be made to the PCSA with which the adoptive parent(s) entered into the AA agreement. The JFS 01438 is to be incorporated as an addendum to the AA agreement.

(M) If a JFS 01453 has not been completed by a PCSA, all of the following apply:

- (1) Prior to adoption finalization or disruption prior to adoption finalization, if applicable, the adoptive parent(s) is to submit a JFS 01421 for reimbursement of nonrecurring adoption expenses to the PCSA who holds permanent custody or, in the case of an independent adoption, in the county in which the adoptive parent(s) resides.
- (2) At the time of application and prior to adoption finalization or disruption prior to adoption finalization, if applicable, the adoptive parent(s) is to provide the PCSA with:
 - (a) A copy of the JFS 01616 "Social and Medical History" completed on the child for whom the request is being made or a copy of the social and medical history completed in the child's country of origin.
 - (b) A copy of the JFS 01673A "Child Characteristics Checklist for Foster Care and/or Adoption" and one of the following homestudies:
 - (i) JFS 01673 "Assessment for Child Placement (Homestudy)" or its equivalent for a child adopted from another state.
 - (ii) JFS 01692 "Application for Adoption of a Foster Child or Sibling Group".
- (3) If the adoptive parent(s) does not provide a completed JFS 01616, JFS 01673A and JFS 01673 or JFS 01692, the PCSA is to deny the JFS 01421.

(N) If the child is placed for adoption from Ohio into another state, the following apply:

- (1) If a PCSA has entered into a JFS 01453 or has custody of the child, that PCSA is responsible for the determination of eligibility for reimbursement of nonrecurring adoption expenses and payment of allowable nonrecurring adoption expenses if the child is eligible.
- (2) If a JFS 01453 is not in effect or a PCSA does not have custody of the child, the children services agency (CSA) in the state where the adoptive parent(s) lives is responsible for determining eligibility. The CSA is responsible for informing the adoptive parent(s) of the ~~required~~needed documentation.
- (3) If a PCPA has custody of the child, that agency is responsible for providing all ~~required~~needed information and documentation to the PCSA responsible for determining eligibility.

- (4) If a PCSA or PCPA does not have custody of the child, the adoptive parent(s) is responsible for providing all ~~required~~needed information and documentation to the PCSA responsible for determining eligibility. The PCSA is to inform the adoptive parent(s) of the ~~required~~needed documentation.
- (O) If the child is placed for adoption from another state into Ohio, the following apply:
- (1) If the CSA has entered into a Title IV-E AA agreement or has custody of the child, that agency is responsible for determining eligibility for reimbursement of nonrecurring adoption expenses and paying allowable nonrecurring adoption expenses if the child is eligible.
 - (2) If the CSA has not entered into a Title IV-E AA agreement or does not have custody of the child, the Ohio PCSA in the county in which the adoptive parent(s) resides is responsible for determining eligibility for reimbursement of nonrecurring adoption expenses and paying allowable nonrecurring adoption expenses if the child is eligible.
 - (3) If a private child placing agency has custody of the child, that agency is responsible for providing all ~~required~~needed information and documentation to the Ohio PCSA in the county where the adoptive parent(s) resides to determine eligibility.
 - (4) If a private child placing agency does not have custody of the child, the adoptive parent(s) is responsible for providing all ~~required~~needed information and documentation to the Ohio PCSA in the county of residence to determine eligibility. The PCSA is to inform the adoptive parent(s) of the ~~required~~needed documentation.
- (P) A stepparent adopting a child with special needs is not eligible to receive payment or reimbursement for nonrecurring adoption expenses if a biological parent is also present in the home. If a biological parent is not present due to death, divorce, or abandonment of the child, the stepparent is to receive payment or reimbursement for the nonrecurring adoption expenses if all other provisions of this rule are met.
- (Q) For each JFS 01438 executed, the PCSA is to maintain documentation in the child's case record to verify compliance with this rule.
- (R) The state hearing policies and procedures contained in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code apply to individuals applying for benefits under this rule.
- (S) International adoption payment ~~prohibition~~disallowance.

- (1) Notwithstanding any other paragraph of this rule, no payment may be made to an adoptive parent(s) with respect to a child who meets the requirements specified in paragraph (J) of this rule but who is not a citizen or resident of the United States and was adopted outside of the United States or was brought into the United States for the purpose of being adopted.
- (2) Paragraph (S)(1) of this rule is not to be construed as ~~prohibiting~~disallowing payments where the child is placed and is legally available for adoption by a permanent custody order or ~~permenant~~ permanent surrender by a PCSA or PCPA, or petition for adoption when the child is the subject of an independent adoption pursuant to rule 5101:2-49-02 of the Administrative Code subsequent to the failure, as determined by the PCSA, of the initial adoption of the child by the parent(s) described in paragraph (S)(1) of this rule.
- (3) If an adopted child from a foreign country has a subsequent adoption finalization in the U.S., the child is not eligible for nonrecurring adoption expenses.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	5101.141, 5101.11
Rule Amplifies:	5101.11, 5101.141
Prior Effective Dates:	04/03/1989 (Emer.), 06/18/1989, 05/01/1998, 07/01/2000, 02/15/2002, 01/01/2007, 08/10/2009 (Emer.), 11/09/2009, 06/01/2010, 12/15/2011, 07/01/2014, 08/01/2019, 02/03/2020