

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-44-05.1

**Rule Type:** Amendment

**Rule Title/Tagline:** Covered families and children (CFC) medicaid eligibility: Children with special needs.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** OFC- 4200 E. 5th Ave., 2nd fl. L2-01 P.O. Box 183204 Columbus OH 43218-3204

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 4/10/2019
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5153.163
5. **What statute(s) does the rule implement or amplify?** 5101.141
6. **What are the reasons for proposing the rule?**

Five-year review.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the guidelines for medicaid eligibility for children with special needs. Changes include: updating revision dates and making minor language changes for clarity.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0

No fiscal effects expected on current or future budgets.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No costs of compliance.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

**III. Common Sense Initiative (CSI) Questions**

15. Was this rule filed with the Common Sense Initiative Office? No

16. Does this rule have an adverse impact on business? No

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

(This form is used to establish an initial state adoption maintenance subsidy)

**SECTION I: STATE ADOPTION MAINTENANCE SUBSIDY AGREEMENT**

The following state adoption maintenance subsidy (SAMS) agreement has been entered into by and between the PCSA listed below, hereinafter called "agency," and the adoptive parent(s) listed below, hereinafter called the "adoptive parent(s)."

Public Children Services Agency (PCSA)

Name of Adoptive Parent

Name of Adoptive Parent

Child's Name

Date of Birth

Address

**SECTION II: DETERMINATION OF SPECIAL NEEDS**

The Agency has determined that the special needs of the adoptive child, identified or anticipated, are as follows:

**SECTION III: AMOUNT AND DURATION OF STATE ADOPTION MAINTENANCE SUBSIDY AGREEMENT**

A monthly cash payment will be paid to you in the amount of \$ \_\_\_\_\_ per month for the period beginning \_\_\_\_\_ and ending \_\_\_\_\_. This monthly cash payment will be made on behalf of your adoptive child to help meet the costs of food, shelter, clothing and routine medical and dental care.

As outlined in rule 5101:2-44-06 of the Administrative Code, the SAMS payment amount shall be agreed upon between the public children services agency (PCSA) and the adoptive parent(s) and shall be based upon the needs of the adoptive child and in accordance with the PCSA's adoption policy.

This is an initial subsidy agreement effective for one year from the date of the first payment. The agency shall complete a JFS 01614 "Redetermination or Amendment of a State Adoption Maintenance Subsidy" annually, beginning one year from the initial effective date of the agreement. Annual SAMS agreements will be entered into by and between the agency and adoptive parent(s) as outlined in 5101:2-44-08 of the Administrative Code.

The subsidy may be reduced, suspended or terminated in the event of judicial, executive or legislative action reducing the appropriation, or suspending or terminating the authority of the agency to continue the SAMS.

**SECTION IV: RESPONSIBILITIES OF ADOPTIVE PARENT(S)**

1. Cooperate with the agency in fulfillment of all requirements of the SAMS program, including, but not limited to, redeterminations annually or more often if necessary.
2. Responsibly administer SAMS funds received on behalf of your child.
3. Immediately notify the agency, in writing, when any of the following apply:
  - You are no longer responsible for the support of your child or are no longer supporting your child
  - There is a substantial change in your financial situation
  - There is a substantial change in your child's special needs
  - There is a change of address for the adoptive family
3. You may provide a written request at any time to modify, suspend or terminate the subsidy payment.
4. If the adoption has not yet finalized, the adoptive parents will work diligently to finalize the adoption and not cause any undue delay.

## **SECTION V: GENERAL PROVISIONS OF STATE ADOPTION MAINTENANCE SUBSIDY PROGRAM**

1. The adoptive child must be in the custody of a PCSA or private child placing agency (PCPA).
2. The adoptive child must be identified as a child with special needs if approved for SAMS.
3. The initial SAMS approval must be issued prior to the final decree of adoption.
4. The approval and continuation of SAMS is contingent upon the availability of funds.
5. SAMS continues if the adoptive parent(s) and adoptive child move to another county, state or country provided all eligibility requirements are still met.
6. SAMS payments cannot be made for a period of more than twelve (12) months prior to the issuance of a final decree, unless the final adoption decree is delayed by proceedings or action under the jurisdiction of the court. SAMS payments extended due to a delay by an action of the court are limited to the initially agreed upon amount.
7. A redetermination JFS 01614 of the SAMS will be completed one year from the initial effective date of the JFS 01615 and annually thereafter. Failure of the agency to initiate the redetermination will not cause a lapse in the SAMS.
8. The agency can redetermine SAMS more often than annually if the agency is aware of substantial changes in the adoptive parent(s) financial situation or the adoptive child's special needs.
9. The subsidy will also be redetermined prior to any substantial amendment of the terms and conditions of this approval.
10. At any time, the adoptive parent(s) may request, in writing, a redetermination of SAMS. No oral modifications shall have effect.
11. The agency shall respond to any written request for redetermination of SAMS within thirty days of the request.
12. The agency shall provide the adoptive parent with information concerning their right to a state hearing when the adoptive parent does not agree with the action the agency has taken regarding the SAMS.

## **SECTION VI: SUSPENSION OF STATE ADOPTION MAINTENANCE SUBSIDY**

The SAMS subsidy payment shall be suspended if any of the following circumstances occur:

1. Twelve months have elapsed from the initial issuance of the SAMS payments and no adoption finalization has occurred, unless the final adoption decree is delayed by proceedings or action under the jurisdiction of the court.
2. The adoptive parent's annual gross income exceeds one hundred and twenty per cent of the median income of a family of the same size. Included in the family size count is the adoptive child, pursuant to rule 5101:2-44-06 of the Administrative Code.
3. The adoptive child enters military service.
4. The adoptive parent(s) fails to comply with a redetermination of eligibility pursuant to rule 5101:2-44-08 of the Administrative Code.
5. The adoptive parent(s) requests suspension.

**SECTION VII: TERMINATION OF STATE ADOPTION MAINTENANCE SUBSIDY**

The SAMS subsidy shall be terminated if any of the following circumstances occur:

1. The adoptive child's death.
2. The adoptive parent is no longer financially supporting the child. Financially supporting means providing the child with shelter, food, clothing or child support.
3. The adoptive child reaches the age of eighteen or reaches the age of twenty-one and has been eligible because the child is mentally or physically disabled.
4. Six months have elapsed from the redetermination date and the adoptive parent fails to comply with a redetermination of eligibility pursuant to rule 5101:2-44-08 of the Administrative Code.
5. The terms of the SAMS have been fulfilled.
6. The adoptive parent(s) requests termination.

**SECTION VIII: RIGHT TO A STATE HEARING**

You have a right to a state hearing before the Ohio Department of Job and Family Services if your application is denied or if you disagree with any other actions taken on your application. For a complete explanation of your hearing rights and the hearing process, please read the JFS 04059 "Explanation of State Hearing Procedures." A copy of the JFS 04059 should be given to you along with this application form.

**SECTION IX: SIGNATURES**

Adoptive Parent Signature	Date
Adoptive Parent Signature	Date
Approved By ( <i>Authorized Agency Representative</i> )	Date