

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Social Services

Division

Michael Lynch

Contact

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5101:2-44-06

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Eligibility of adoptive family and adoptive child for the state
adoption maintenance subsidy program.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5153.163**

5. Statute(s) the rule, as filed, amplifies or implements: **5153.16, 5153.163**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This policy is being revised to comply with the five year rule process pursuant to R.C. 119.032 and to update the policy according to the revision and recommendatons of the Midwest Child Welfare Implementation Center (MCWIC)/ Partners for Ohio's Families (PFOF).

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

Paragraph A of the rule, listing the definitions of qualified professionals has been removed and placed in the new paragraph (A)(5)(g) of the rule. Other areas of the rule were amended for clarity.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC121.7 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more dated references to and ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS WEB SITE (<http://jfs.ohio.gov/>) in accordance with RC 121.75(E).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: 5/28/2014

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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This will have no impact on the budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Certification by ODJFS requires the agency to comply with the rule.

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? **Yes**

Lack of compliance can result in revocation of the certificate.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

The PCPAs are required to complete the JFS 01673, JFS 01654 and JFS 01616 forms and send them to the Public Children Services Agencies (PCSAs).

Ohio Department of Job and Family Services

STATE ADOPTION MAINTENANCE SUBSIDY AGREEMENT

(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 Mother

Name of Adoptive Father

Child's Name: Last

First

Date of Birth

Address

City

State

Zip Code

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 redetermination of the JFS 01615 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 you are no longer legally responsible for the support of your child or are no longer supporting your child.
4. Immediately notify the agency in writing of any substantial change in your financial situation or your child's special need.
5. Immediately notify the agency in writing when there is an address change.
6. You may provide a written request at any time to modify, suspend or terminate the subsidy payment.

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 (PCPC).
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 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 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, including 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) request 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 legally responsible to financially support the child. Financially supporting means providing the child with shelter, food and 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 "Explanation of State Hearing Procedures," JFS 04059. A copy of the JFS 04059 should be given to you along with this application form.

SECTION IX: SIGNATURES

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

Ohio Department of Job and Family Services
INSTRUCTIONS FOR COMPLETING JFS 01615
STATE ADOPTION MAINTENANCE SUBSIDY AGREEMENT
(The JFS 01615 is used to establish an initial state adoption maintenance subsidy)

SECTION I: STATE ADOPTION MAINTENANCE SUBSIDY AGREEMENT

Name of Public Children Services Agency (PCSA): Enter the name of the PCSA in which this application will be submitted.

Name of Adoptive Mother: Enter the first and last name of the adoptive mother

Name of Adoptive Father: Enter the first and last name of the adoptive father.

Name of Adoptive Child: Enter the first and last name of the adoptive child.

Date of Birth: Enter the month, day and year in which the adoptive child was born.

Address: Enter the street address, city, state and zip code of the adoptive parent(s) and child.

SECTION II: DETERMINATION OF SPECIAL NEEDS

This section describes the special needs of the child that makes the child eligible to receive a SAMS.

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

This section outlines the effective date, amount and duration of the state adoption maintenance subsidy (SAMS) agreement as agreed upon by the PCSA and the adoptive parent(s).

SECTION IV: RESPONSIBILITIES OF ADOPTIVE PARENT(S)

This section outlines the responsibilities of the adoptive parent(s) upon acceptance of the SAMS.

SECTION V: GENERAL PROVISIONS OF STATE ADOPTION MAINTENANCE SUBSIDY PROGRAM

This section outlines the major general provisions of the SAMS program.

SECTION VI: SUSPENSION OF STATE ADOPTION MAINTENANCE SUBSIDY

This section outlines the circumstances that shall cause suspension of the SAMS.

SECTION VII: TERMINATION OF STATE ADOPTION MAINTENANCE SUBSIDY

This section outlines the circumstances that shall cause termination of the SAMS.

SECTION VIII: RIGHT TO A STATE HEARING

This section informs you of your right to request a state hearing if you do not agree with the decision made on your application.

SECTION IX: SIGNATURES

This section is signed by the adoptive parent(s) and an authorized agency representative and constitutes a mutual agreement of effective date, amount and duration of the SAMS.