

5101:2-49-02 **Adoption assistance eligibility criteria.**

(A) The public children ~~services~~services agency (PCSA) shall determine that a child is eligible for Title IV-E adoption assistance (AA) if, prior to the ~~final~~ decreefinalization of the adoption, the PCSA finds all of the following:

- (1) The child meets the requirements of a special needs child as defined in rule 5101:2-49-03 of the Administrative Code.
- (2) The adoptive parent(s) has an approved homestudy 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.
- (3) The child has been matched with an adoptive parent(s) in accordance with rule 5101:2-48-16 of the Administrative Code.
- (4) The child meets the age requirement as defined in rule 5101:2-49-04 of the Administrative Code.
- (5) There has been a judicial determination that it is contrary to the child's welfare for the child to return to the home of the child's specified relative. This judicial determination shall be:

(a) Made in accordance with the timeframes below:

- (i) For a child removed on or after January 23, 2001, in the first court ruling removing the child from the home of the specified relative.
- (ii) For a child removed before January 23, 2001 at the time of, or before the initiation of adoption proceedings.

(b) Explicit and made on a case by case basis. Items such as nunc pro tunc orders, affidavits, and bench notes are not acceptable substitutes for a court order. An official transcript is sufficient evidence of judicial determination.

(c) Based on one of the following:

- (i) An order from a court of competent jurisdiction terminating the rights of both birth parents.
- (ii) A motion for termination of parental rights for both parents.

- (iii) A signed JFS 01666 "Permanent Surrender of Child" (rev. 6/2006) by the birth parents executed in accordance with ~~paragraph (C) of this rule~~ 5101:2-49-02.1 of the Administrative Code.
 - (iv) The child can be adopted in accordance with the law of a state or tribe without a court order terminating parental rights or a voluntary relinquishment by the parent(s), and there is documentation from the state or tribe that ~~providing~~ provides a valid reason why the child cannot or should not be returned to the home of his or her parent(s).
- (6) The agency placing the child made a reasonable but unsuccessful effort to place the child with an appropriate adoptive parent(s) without adoption assistance, as supported by facts specified in the child's case record.
- (7) One of the following categories is applicable:
- (a) The child met the aid to families with dependent children (AFDC) relatedness requirements in accordance with rule 5101:2-49-02.1 of the Administrative Code at the time of removal from the home of a specified relative.
 - (b) The child is eligible for Title XVI supplemental security income (SSI) benefits prior to the finalization of the adoption and currently meets the definition of special needs as defined in rule 5101:2-49-03 of the Administrative Code. SSI eligibility shall be determined only by a designated social security administrative claims representative.
 - (c) The child's minor parent was in foster care and received a Title IV-E foster care maintenance payment covering both the minor parent and the child of the minor parent.
 - (d) The child is in the custody of a PCSA, PCPA, or tribe at the time of the initiation of the adoption proceedings through a voluntary placement agreement, voluntary relinquishment, or a court-ordered removal and both of the following apply:
 - (i) ~~A~~ There is a judicial determination that remaining in the home would be contrary to the child's welfare.
 - (ii) The child meets the following age requirements ~~shall be met~~.

- (a) During October 1, 2009 through September 30, 2010, the child ~~turns~~turned or ~~is~~was older than sixteen years of age and the PCSA and the adoptive parent(s) ~~enter~~entered into an AA agreement.
 - (b) During October 1, 2010 through September 30, 2011, the child ~~turns~~turned or ~~is~~was older than fourteen years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (c) During October 1, 2011 through September 30, 2012, the child turns or is older than twelve years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (d) During October 1, 2012 through September 30, 2013, the child turns or is older than ten years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (e) During October 1, 2013 through September 30, 2014, the child turns or is older than eight years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (f) During October 1, 2014 through September 30, 2015, the child turns or is older than six years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (g) During October 1, 2015 through September 30, 2016, the child turns or is older than four years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (h) During October 1, 2016 through September 30, 2017, the child turns or is older than two years of age and the PCSA and the adoptive parent(s) enter into an AA agreement.
 - (i) On or after October 1, 2017 ~~all children who are~~the child is in the ~~care~~custody of a PCSA, PCPA, or tribe.
- (e) The child has been in the custody of a PCSA, PCPA, or a tribe for sixty consecutive months.
 - (f) A child is a sibling placed in the same adoptive home as his or her sibling

who meets the eligibility criteria in paragraph (A)(7)(d) or (A)(7)(e) of this rule.

(g) The child was in receipt of AA in a prior finalized adoption, currently meets the definition of special needs as set forth in rule 5101:2-49-03 of the Administrative Code, and one of the following apply:

(i) The prior finalized adoption was dissolved and the parental rights of the adoptive parent(s) were terminated on or after October 1, 1997.

(ii) The child's adoptive parent(s) died on or after October 1, 1997.

(B) For the purposes of determining whether an applicable child who is a special needs child is eligible for Title IV-E adoption assistance through the SSI pathway, the Title IV-E agency may make the determination that the child meets the medical or disability requirements for SSI benefits.

~~(B)~~(C) The PCSA shall document the requirements ~~in~~of paragraphs (A)(7)(d), (A)(7)(e), and (A)(7)(f) of this rule on the JFS 01448 "Title IV-E Adoption Assistance Non-AFDC Relatedness Eligibility Determination" ~~(3/2010)~~(4/2010). A copy of the JFS 01448 shall be kept in the child's AA case record.

~~(C)~~(D) ~~For a child previously determined eligible for AA as referenced in paragraph (A)(7)(g) of this rule, and is not in the permanent custody of a PCSA or PCPA, before the child can be determined eligible for AA in a subsequent adoption one of the following shall apply~~Before a PCSA in the county where the adoptive parent(s) resides can determine whether a child who was eligible for AA in a previous adoption, continues to meet the special needs and age requirements for a subsequent adoption, the PCSA that entered into the previous agreement shall terminate that agreement in accordance with rule 5101:2-49-13 of the Administrative Code.÷

~~(1) If the child resides in the same county as the PCSA responsible for the child's previous AA agreement, the PCSA shall terminate the JFS 01453 "Adoption Assistance Agreement" (rev. 3/2010), and determine whether the child continues to meet the special needs and age requirements.~~

~~(2) If the child is placed for adoption in another county or another state, the PCSA responsible for the child's previous AA agreement is responsible for terminating the agreement. The agency in the county or state in which the adoptive parent(s) resides at the time the previous agreement is terminated, is responsible for determining whether the child continues to meet the special needs and age requirements.~~

~~(D)~~(E) If, after notifying the adoptive parent(s) that the child is eligible and the adoptive parent(s) ~~determine~~determines that there is no existing need for AA payments, the PCSA and adoptive parent(s) shall complete a JFS 01453 "Adoption Assistance Agreement" (rev. 4/2010) indicating zero dollars and zero cents pursuant to rule 5101:2-49-07 of the Administrative Code.

~~(E)~~(F) Except if the child meets the eligibility criteria after the disruption of an international adoption, children who are adopted abroad and brought into the United States from other countries for the purpose of adoption are not eligible for Title IV-E AA because they do not meet any one of the following:

- (1) AFDC-relatedness criteria in their own homes due to the unavailability of the AFDC program outside the United States.
- (2) Eligibility requirements for SSI benefits no later than the date of the finalization of the adoption.
- (3) Eligibility requirements as a result of their minor parent(s) receipt of FCM payments.

~~(F)~~(G) If the AA eligibility is denied, the PCSA shall provide the adoptive parent(s) with a copy of the JFS 04059 "Explanation of State Hearing Procedures" (rev. 10/2008).

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