

## TO BE RESCINDED

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

(A) A child is eligible for Title IV-E adoption assistance (AA) if, prior to the finalization of the adoption the public children services agency (PCSA) finds all of the following:

- (1) 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.
- (2) The child has been matched with an adoptive parent(s) in accordance with rule 5101:2-48-16 of the Administrative Code. 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 except as specified in paragraph (E) of this rule.
- (3) The child meets the age requirement as defined in rule 5101:2-49-04 of the Administrative Code.
- (4) The child meets the requirements of a child with special needs as defined in rule 5101:2-49-03 of the Administrative Code.
- (5) The child meets the requirements for an applicable child as defined in paragraphs (B) and (C) or non-applicable child as defined in paragraph (D) of this rule.

(B) The child must be a citizen or resident of the United States, and will be adopted in the United States and must meet one of the three following requirements to be an applicable child in paragraphs (B)(1) to (B)(3) of this rule along with one of the four applicable child eligibility requirements in paragraphs (C)(1) to (C)(4) of this rule:

- (1) Prior to finalization of adoption the PCSA and the adoptive parent(s) entered into an AA agreement and the child meets the following age requirements:
  - (a) During October 1, 2013 to September 30, 2014, the child turned eight years of age or was older than eight.
  - (b) During October 1, 2014 to September 30, 2015, the child turned six years of age or was older than six.
  - (c) During October 1, 2015 to September 30, 2016, the child turned four years of age or was older than four.
  - (d) During October 1, 2016 to September 30, 2017, the child turned two years of age or was older than two.

- (e) On or after October 1, 2017, all children regardless of their age meet the applicable child age requirement.
  - (2) The child has been in the custody of a PCSA, public child placing agency (PCPA), or a tribe for sixty consecutive months.
  - (3) The child is a sibling placed in the same adoptive home as his or her sibling who meets the applicable child eligibility criteria in paragraph (B)(1) or (B)(2) of this rule.
- (C) An applicable child as defined in paragraphs (B)(1) to (B)(3) of this rule must also meet one of the four applicable child adoption assistance eligibility requirements:
- (1) The child, at the time of the initiation of adoption proceedings, was in the care of a PCSA, PCPA or tribe pursuant to:
    - (a) A judicial determination to the effect that it was contrary to the child's welfare to remain in the home at any time prior to the finalization of adoption; or
    - (b) A JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) or JFS 01666 "Permanent Surrender of Child" (rev. 10/2013) with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home. For an applicable child that enters care through a JFS 01645 or JFS 01666 there does not have to be a foster care maintenance (FCM) payment made under the voluntary agreement.
  - (2) The child meets all medical and disability requirements for supplemental security income (SSI). For the purposes of determining whether an applicable child is eligible for AA through the SSI criteria, the Title IV-E agency may make the determination that the child meets the medical or disability requirements for SSI benefits.
  - (3) The child is a child of a minor parent. The child was residing with the minor parent and the minor parent was removed from a specified relative with one of the following:
    - (a) A judicial determination that it was contrary to the welfare for the minor parent to remain with the specified relative.
    - (b) A JFS 01645 or JFS 01666. No FCM payment is required to cover both the minor parent and the child of the minor parent.

- (4) 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 finalizes the new AA agreement by the end of the month of the child's eighteenth birthday, and one of the following apply:
  - (a) The prior finalized adoption was dissolved and the parental rights of the adoptive parent(s) were terminated on or after October 1, 1997.
  - (b) The child's adoptive parent(s) died on or after October 1, 1997.
- (D) A non-applicable child must meet one of the four non-applicable child adoption assistance requirements:
  - (1) The child is eligible for Title XVI supplemental security income (SSI) benefits prior to the finalization of the adoption. SSI eligibility shall be determined only by a designated social security administrative claims representative.
  - (2) The child met the aid to families with dependent children (AFDC) relatedness requirements authorized under Title IV-A of the Social Security Act as of July 16, 1996 pursuant to rule 5101:2-47-14 of the Administrative Code which includes the requirements for age, deprivation, living with and removed from a specified relative, income and resources standards and, if at the time of removal from the specified relative one of the following requirements are met:
    - (a) If the removal was the result of a judicial determination placing the child in the custody of the PCSA, the first judicial determination removing the child from the specified relative shall include a judicial determination finding that it is contrary to the child's welfare for the child to remain with the specified relative the child was removed from. This determination must be explicit and made on a case by case basis. If the contrary to the welfare judicial determination is not included as required, a transcript of the court proceedings is the only other documentation that will be acceptable to verify that contrary to the welfare requirement has been made. This judicial determination shall be made in accordance with the following timeframes:
      - (i) For a child removed on or after January 23, 2001, in the first judicial determination removing the child from the specified relative.
      - (ii) For a child removed before January 23, 2001, at the time of, or before the initiation of adoption proceedings.
    - (b) If the removal was the result of a JFS 01645 or JFS 01666 to a PCSA, and the agency was in receipt of a FCM payment, that voluntary agreement

is considered a judicial determination for adoption assistance if all the following conditions are met:

- (i) The JFS 01666 is entered into by the PCSA and is subsequent to a JFS 01645.
  - (ii) There is a petition to the court to remove the child from the specified relative within six months from the date the child lived with the specified relative.
  - (iii) There is a subsequent judicial determination that it is contrary to the welfare of the child to remain with the specified relative.
- (3) The child's minor parent was in foster care and received a FCM payment covering both the minor parent and the child of the minor parent while in agency care.
- (4) The child was in receipt of AA in a prior adoption, and finalizes the new AA agreement by the end of the month of the child's eighteenth birthday.
- (a) The prior finalized adoption was dissolved and the parental rights of the adoptive parents were terminated on or after October 1, 1997.
  - (b) The child's adoptive parent(s) died on or after October 1, 1997.
- (E) Adoption assistance eligibility for a child that meets the requirements of a child with special needs as defined in rule 5101:2-49-03 of the Administrative Code who is the subject of an independent adoption is eligible only when the child is eligible for SSI or a child in a subsequent adoption if the child received Title IV-E AA in a previous adoption. An independent adoption is one in which the child is not under the responsibility of a public or private adoption agency. The matching requirements as described in paragraph (A)(2) of this rule are not required in these circumstances. The Title IV-E agency shall accept the independent adoption homestudy as meeting the requirements described in paragraph (A)(1) of this rule.
- (F) For all children that are determined eligible for adoption assistance, before the adoption finalization and the issuance of a monthly adoption assistance amount, the background checks specified in rule 5101:2-48-10 of the Administrative Code must be conducted and the checks must reveal that the prospective adoptive parent(s) has not been convicted of one of the prohibited offenses listed in the rule. The Title IV-E agency is responsible for ensuring that the background checks reveal that the prospective adoptive parent(s) has not been convicted of one of the prohibited offenses in accordance with rule 5101:2-48-10 of the Administrative Code.

- (G) If there is insufficient or no available verification of AFDC-relatedness for the non-applicable child, the AA eligibility determiner shall contact the county department of job and family services (CDJFS) or other resources to obtain information pertaining to these requirements. If the AFDC-relatedness requirements cannot be verified, the child does not meet the AFDC-relatedness eligibility requirements.
- (H) The PCSA shall use the the statewide automated child welfare information system (SACWIS) to determine adoption assistance eligibility.
- (I) If, after notifying the adoptive parent(s) that the child is eligible for adoption assistance and the adoptive parent(s) determines that there is no existing need for monthly AA payments, the PCSA and the adoptive parent(s) shall complete a JFS 01453 "Adoption Assistance Agreement" (rev. 1/2014) indicating zero dollars and zero cents pursuant to rule 5101:2-49-07 of the Administrative Code.
- (J) Unless eligible for AA in a subsequent adoption, a child who was adopted abroad and brought into the United States from other countries for the purpose of adoption is not eligible for AA because the child does not meet any of the following:
- (1) AFDC-relatedness criteria in their own home 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.

Effective:

Five Year Review (FYR) Dates: 8/31/2018

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 5101.141  
Rule Amplifies: 5101.11  
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,  
03/18/1999 (Emer.), 06/17/1999, 07/01/2000,  
11/01/2000, 03/03/2002, 01/01/2007, 04/01/2010,  
12/15/2011, 07/01/2014