

5101:2-49-02

**Adoption assistance eligibility requirement.**

(A) The following criteria must be met for a child to be determined eligible for Title IV-E adoption assistance (AA) prior to the final decree of adoption:

- (1) The child is legally free and placed for adoption.
- (2) The child must be determined a special needs child as defined in rule 5101:2-49-03 of the Administrative Code.
- (3) The child must meet the age requirement as defined in rule 5101:2-49-04 of the Administrative Code.
- (4) The child cannot or should not be returned to the home of the child's parents. This determination shall be based on one of the following:
  - (a) An order from a court of competent jurisdiction terminating the rights of both birth parents;
  - (b) A motion for termination of parental rights;
  - (c) A signed JFS 01666 "Permanent Surrender of Child" (rev. 02/2002) by the birth parents executed in accordance with paragraph (C) of this rule.
  - (d) If 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), documentation from the state or tribe that provided a valid reason why the child cannot or should not be returned to the home of his/her parent(s).
- (5) The adoptive parents must have a homestudy completed and approved by an agency with such authority.
- (6) There must be a signed JFS 01453 "Adoption Assistance Agreement" (rev. 10/2006) between the public children services agency (PCSA) and the adoptive parent(s) prior to the final decree of adoption.
- (7) The placement of any child into Ohio by another state or territory, or from Ohio into another state or territory, whose placement meets the definition of interstate placement as set forth in rule 5101:2-1-01 of the Administrative Code must meet the requirements of rules 5101:2-42-20 to 5101:2-42-23 of the Administrative Code.
- (8) The child meets one of the following conditions:
  - (a) At both the time of removal from the home of a specified relative and in the month the adoption petition is filed, the child meets the ADC-relatedness requirements and there is a judicial determination

documenting that the removal from the home is in the best interest of the child or that continuation in the home would be contrary to the welfare of the child;

(b) The child meets the eligibility requirements for Title XVI supplemental security income (SSI) benefits at the time the adoption petition is filed. SSI eligibility shall be determined only by a designated social security administrative claims representative;

(c) The child's costs in a foster home or residential child care facility are reimbursable by the Title IV-E foster care maintenance (FCM) payments being made for his/her minor parent at the time the adoption petition is filed pursuant to rule 5101:2-49-05 of the Administrative Code.

(B) Pursuant to criteria set forth in rules 5101:2-47-14 and 5101:2-47-14.1 of the Administrative Code, the AA program eligibility shall be based upon whether the home from which the child was removed would have met the ADC-relatedness eligibility requirements in effect on July 16, 1996. In addition to the determination requirements as outlined in paragraph (A)(4)(a), (A)(4)(b), (A)(4)(c) and (A)(4)(d) of this rule, one of the following categories must be met.

(1) The PCSA or private child placing agency (PCPA) filed a petition for the custody of the child which resulted in the court-ordered removal of the child from the home. The court ordered removal states that continuation in the home would be contrary to the welfare of the child or that removal from the home is in the best interest of the child.

(2) The PCSA or PCPA filed a petition for the custody of the child from a specified relative. The court order resulted in the child's placement into the custody of the PCSA or PCPA. The court ordered removal states that continuation in the home is contrary to the welfare of the child or that removal of the child from the home is in the best interest of the child.

(3) The child is removed from the home of a specified relative and is placed in the custody of a PCSA as a result of a JFS 01645 "Agreement for Temporary Custody of Child" (rev. 12/2005), and the child is in receipt of Title IV-E foster care maintenance payments while the JFS 01645 is in effect, and the PCSA files a request to the court for an original thirty day extension of the JFS 01645 and the court of competent jurisdiction made a written determination or issued an order granting custody of the child to the PCSA which contains a determination to the effect that continuation in the home would be contrary to the welfare of the child or that removal from the home is in the best interest of the child.

(C) A child in the custody of a PCSA or PCPA by means of a voluntary agreement to

transfer the permanent custody of the child to a PCSA or PCPA is determined to meet the ADC-relatedness, if in the month the petition to adopt is filed, ADC-relatedness requirements of age, need and deprivation are met and one of the following applies:

(1) The JFS 01666 "Permanent Surrender of Child" (rev. 12/2005), is entered into by the PCSA or PCPA and the permanent surrender is the event that led to the removal of the child from the home and the court of competent jurisdiction made a written determination or issued an approval granting custody of the child to the PCPA which contains a determination to the effect that continuation in the home would be contrary to the welfare of the child or that removal from the home is in the best interest of the child.

(2) The JFS 01666 is entered into by a PCPA and is subsequent to a JFS 01645 and is executed no later than ninety-six hours after the birth of the child.

(D) A child previously determined eligible for AA in a prior finalized adoption is eligible for AA in a subsequent adoptive placement where the child is available for adoption when either of the following apply:

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

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

(E) If the judicial determination that continuation in the home would be contrary to the welfare of the child or the removal from the home is in the best interest of the child is not included in the court order, a transcript of the court proceedings is the only other documentation acceptable to verify that the required determination has been made. An affidavit, a nunc pro tunc order, or a backdated court determination are not acceptable as documentation, of the requirements as specified in paragraph (B) of this rule.

(F) When it is necessary to establish whether the child meets the ADC-relatedness requirements for Title IV-E AA eligibility, in accordance with paragraphs (B) and (C) of this rule, the PCSA must complete a JFS 01452 "Title IV-E Foster Care Maintenance Application for Initial Eligibility" (rev. 12/2005). In situations where there is insufficient or no available verification of ADC-relatedness, 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 ADC-relatedness requirements cannot be verified, the child does not meet this eligibility requirement.

(G) 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) ADC-relatedness criteria in their own homes due to the unavailability of the ADC program outside the United States.
- (2) Eligibility requirements for SSI benefits no later than the month the adoption petition is filed.
- (3) Eligibility requirements as a result of their minor parents receipt of FCM payments.

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Certification

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