

5101:2-49-03

Special needs criteria for adoption assistance.

(A) Prior to the finalization of adoption, the PCSA must determine that all of the following special needs criteria have been met in order for the child to be considered a child with special needs:

(1) The child is legally available for adoption.

(2) There is a judicial determination that it is contrary to the child's welfare to return the child to the home of the child's specified relative pursuant to rule 5101:2-49-02 of the Administrative Code.

(3) The public children services agency (PCSA) or private child placing agency (PCPA) shall document that the child has one or more of the following factors or conditions that make it difficult to place the child with an adoptive parent(s) without the provision of AA or medical assistance:

(a) The child is part of a sibling group being adopted together or part of a previously adopted biological sibling group with whom the child should be placed.

(b) The child is a member of a minority racial or ethnic group that make it difficult to place the child for adoption. However, if the child is between the age of newborn and twelve months the child must be diagnosed to have one of the conditions outlined in paragraph (A)(3)(g) or (A)(3)(h) of this rule.

(c) The child is six years old or older.

(d) The child has remained in the permanent custody of a PCSA or PCPA for more than one year without being placed for adoption.

(e) The child has been in the home of a prospective adoptive parent(s) for at least twelve consecutive months directly preceding the adoptive placement. The child would experience severe separation and loss if placed in another setting due to significant ties with the foster parent(s). The emotional ties shall be diagnosed and documented by a qualified mental health professional.

(f) The child has experienced a previous adoption disruption or three or more substitute care placements while in the custody of a PCSA or PCPA.

(g) The child has been diagnosed by a qualified professional, in the professional's area of expertise. For the purpose of this rule, the "qualified professional" is an audiologist, licensed independent social worker, licensed professional clinical counselor, medical doctor, orthopedist, psychiatrist, psychologist, marriage and family therapist, or speech/language pathologist. There is a clear written statement the child

has been diagnosed with one of the following:

(i) A developmental disability, as defined in rule 5101:2-1-01 of the Administrative Code.

(ii) A developmental delay, as defined in rule 5123:2-1-02 of the Administrative Code.

(iii) Mental illness, as defined in rule 5101:2-1-01 of the Administrative Code.

(iv) Mental retardation, as defined in rule 5101:2-1-01 of the Administrative Code.

(v) A medical condition as diagnosed by a qualified physician.

(h) The child or the child's biological family has a social or medical history establishing a substantial risk for developing one of the conditions as described in paragraph (A)(3)(g) of this rule. The substantial risk makes it difficult to place the child for adoption without the provision of AA. A qualified professional shall determine the substantial risk, as defined in paragraph (B) of this rule.

(4) Reasonable, but unsuccessful, efforts to place without adoption assistance.

(a) Except as described in paragraph (A)(4)(c) of this rule, the PCSA shall document that in each case a reasonable, but unsuccessful, effort was made to place the child with appropriate adoptive parents without adoption assistance.

(b) The agency shall list in each child's case record:

(i) The specific factor(s) or condition(s) listed in paragraph (A)(3) of this rule that makes the child difficult to place, and

(ii) The efforts to place the child for adoption without the provision of adoption assistance.

(c) When it is in the best interest of the child to place with a particular adoptive parent(s) because of such factors as the existence of significant emotional ties with prospective adoptive parent(s) while in the care of the parent(s) as a foster child, adoption by a relative, or other circumstances that relate to the child's best interest:

(i) The agency shall inquire as to whether the adopting parent(s) is willing to adopt without adoption assistance.

(ii) There is no additional requirement to make reasonable, but unsuccessful, effort to place the child without adoption assistance beyond the requirement specified in paragraph (A)(4)(c)(i) of this rule.

(iii) Documentation as to the inquiry and the basis for any exception shall be included in the child's case record.

(B) If all other eligibility criteria are met, and the only special needs factor is the child has been determined at substantial risk, with no manifestation of a special needs factor, a JFS 01453 "Adoption Assistance Agreement" (rev. 10/2006) only with no payment shall be entered into in accordance with rule 5101:2-49-07 of the Administrative Code. The PCSA shall document the following in the child case record:

(1) The child has been diagnosed to have a substantial risk. A "substantial risk" means a significant possibility that a certain result may occur or that certain circumstances may exist.

(2) The PCSA, PCPA or prospective adoptive parent(s) provided documentation of the substantial risk as diagnosed by the qualified professional at the time of the special needs determination.

(3) A qualified professional in the field of expertise that has provided the PCSA with a written statement of the child's developmental disability, developmental delay, mental illness, mental retardation, or medical condition supported by an assessment or evaluation. This statement shall include an opinion as to the origin of the problem, past history, prognosis, and recommendations related to potential treatment needs as defined in paragraph (A)(3)(h) of this rule.

(C) If the child is not in the custody of a state agency the following PCSA or state shall be responsible for the determination of the child's eligibility for special needs and entering into an AA agreement.

(1) If the child is being placed from Ohio into another state, the Title IV-E agency in the adoptive parent(s) state of residence.

(2) If the child is being placed from another state into Ohio, the PCSA in the county in which the adoptive parent(s) resides.

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