

5101:2-49-13

Termination of adoption assistance.

(A) The public children services agency (PCSA) shall terminate the Title IV-E adoption assistance (AA) ~~shall be terminated~~ in any of the following circumstances:;

- (1) The first day of the month following the month of the child's eighteenth birthday; or the first day of the month following the month of the child's twenty-first birthday, ~~when if~~ the child has a mental or physical disability ~~diagnosed by a qualified professional as set forth in rule 5101:2-49-04 of the Administrative Code.~~
- (2) If the child is no longer receiving support from the adoptive parent(s) as defined in paragraph (B) of this rule.
- (3) If the adoptive parent(s) is no longer legally responsible for supporting the child as defined in paragraph (B) of this rule.
- (4) If a court of competent jurisdiction has terminated the parental rights of the adoptive parent(s) or the adoptive parent(s) has voluntarily surrendered ~~their~~ his or her parental rights.
- (5) If the adoptive parent(s) requests termination of the AA benefits.
- (6) If the adoptive placement disrupts prior to finalization.
- (7) If the adoptive parent(s) dies.
- (8) If the child dies.

(B) An adoptive parent(s) is supporting the child ~~when if~~ the adoptive parent(s) provides the child with shelter, food, and clothing. Parents are generally responsible for the support of their minor child who is under eighteen years of age or their physically or mentally disabled child who is under the age of twenty-one. A parent is not legally required to support the child if the child is emancipated.

(C) A child becomes emancipated if the child:

- (1) Marries.
- (2) Enlists in the military service.
- (3) The child has been determined to be an emancipated minor by a court of

appropriate jurisdiction or the state of residence~~Establishes his/her own residence.~~

(4) Is self-supporting by paying for shelter, food, and clothing even though ~~he/she~~ he or she may still reside with ~~his/her~~ the adoptive parent(s).

(D) ~~If When the PCSA one of the circumstances listed in paragraph (A) of this rule is applicable, the public children services agency (PCSA) which has the AA case management responsibility shall propose~~ proposes to terminate~~termination of the~~ AA agreement, the PCSA shall provide the adoptive parent(s) with a written notice of the proposal and right to a state hearing. ~~This applies even though the time specified in the AA agreement has not expired.~~

(1) ~~If a timely state hearing is requested in accordance with provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, AA shall continue until a state hearing decision is issued.~~

(2) ~~If no timely appeal is made, AA shall be terminated. Following termination, the child loses all eligibility for future AA as long as he is legally a member of the same adoptive family.~~

(3) ~~If a timely appeal is made and the hearing decision is favorable to the adoptive parent(s), AA shall continue in accordance with the term of the AA agreement or a new agreement may be entered into by mutual agreement.~~

(4) ~~If a timely appeal is made and the hearing decision is to terminate the AA, the adoptive parent(s) is not required to return the AA payments received prior to the issuance of the state hearing decision.~~

(E) When the PCSA proposes to terminate the AA agreement, if the adoptive parent(s) request a state hearing, the following shall apply:

(1) If a timely state hearing is requested in accordance with provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, AA shall continue until a state hearing decision is issued.

(2) If a timely state hearing is requested and the decision is favorable to the adoptive parent(s), AA shall continue in accordance with the terms of the AA agreement or an amended agreement may be entered into by mutual agreement.

(3) If a state hearing decision is made and the hearing decision is to terminate the AA, the adoptive parent(s) is not required to return the payments received prior to the issuance of the state hearing decision.

- (4) If no timely hearing is requested, AA shall be terminated. Following the termination, the child loses all eligibility for future AA as long as he or she is legally a member of the same adoptive family.
- (F) When the PCSA determines the AA should be terminated a medicaid pre-termination review (PTR) of continuing medicaid eligibility pursuant to rule 5101:1-38.01.1 of the Administrative Code shall be completed.
- ~~(E) When the PCSA which has the AA case management responsibility has proposed termination of AA, the PCSA shall send a JFS 01958 "Referral for Continuing Eligibility Review" (06/2003) to the county department of job and family services (CDJFS) located in the county in which the adoptive parent(s) resides, in compliance with the medicaid pre-termination review in accordance with rule 5101:1-40-02.3 of the Administrative Code.~~
- (G) In accordance with federal requirements, the PCSA may not add any language to the AA agreement that makes the agreement subject to the availability of funds.

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CERTIFIED ELECTRONICALLY

Certification

02/19/2010

Date

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