

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-49-21

**Rule Type:** Amendment

**Rule Title/Tagline:** Reimbursement of nonrecurring adoption expenses for a child with special needs.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** OFC- 4200 E. 5th Ave., 2nd fl. L2-01 P.O. Box 183204 Columbus OH 43218-3204

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 4/16/2019
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5101.141
5. **What statute(s) does the rule implement or amplify?** 5101.11
6. **What are the reasons for proposing the rule?**

This rule is proposed for amendment as a result of the five year rule review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the requirements for eligibility for nonrecurring adoption expenses and the reimbursement of the nonrecurring adoption expenses. Changes were made to clearly explain requirements. Language was added to paragraph (L)(1) that the

Public Children Services Agency (PCSA) that holds permanent custody or the case of an independent adoption. Submission of the JFS 01421 "Application for Reimbursement of Title IV-E Nonrecurring Adoption Expenses" shall be submitted to the county where the adoptive parents reside. In paragraph (R)(3), language was included for a final decree of adoption by a foreign country which now constitutes a final adoption. The JFS 01421 "Application for Reimbursement of Title IV-E Nonrecurring Adoption Expenses"; JFS 01421-I "Instruction for Completing JFS 01421, Application for Reimbursement of Title IV-E Nonrecurring Adoption Expenses"; and JFS 01438 "Agreement for Payment of Reimbursement for Title IV-E Nonrecurring Expenses incurred in Adoption of a Child" have been amended to incorporate the changes made to 5101:2-49-21 of the Administrative Code. The JFS 01453 "Title IV-E Adoption Assistance Agreement" has been amended to incorporate the changes made to 5101:2-49-21 of the Administrative Code.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 and 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E).

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

4/17/19 - The correct revised version of form JFS 01453 entitled "Title IV-E Adoption Assistance Agreement" was not uploaded in the original filing version of this rule.

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

No fiscal effects expected on current or future budgets.

**12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No cost of compliance.

**13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

**14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

### **III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? Yes**

**16. Does this rule have an adverse impact on business? Yes**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

A Private Child Placing Agency (PCPA) and Private Non-Custodial Agency (PNA) must have a license that issued through the Ohio Department of Job and Family Services (ODJFS) to place children for adoption.

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

This proposed rule requires Private Child Placing Agencies (PCPAs) and Private Non-Custodial Agencies (PNAs) to notify anyone inquiring about adoption services of the availability of the nonrecurring adoption expense, the application process, and provide them with the JFS 01421 "Application for Reimbursement of Nonrecurring Adoption Expenses Incurred in the Adoption of a Child with Special Needs" (rev. 12/2015). If the PCPA has custody of the

child, the agency is responsible for providing all required information and documentation to the PCSA that is responsible for determining eligibility for the nonrecurring adoption expenses reimbursement.

Ohio Department of Job and Family Services

## AGREEMENT FOR PAYMENT OR REIMBURSEMENT FOR TITLE IV-E NONRECURRING EXPENSES INCURRED IN THE ADOPTION OF A CHILD WITH SPECIAL NEEDS

### SECTION I: GENERAL PROVISIONS

1. The following agreement has been entered into by and between \_\_\_\_\_ hereinafter called "Agency" and the adoptive parent(s), hereinafter called the "Adoptive Parent(s)," residing at \_\_\_\_\_
2. The adoptive name of the child \_\_\_\_\_

### SECTION II: GENERAL TERMS OF THE AGREEMENT

1. The adoptive parent(s) and the agency concur that the provisions for payment or reimbursement of nonrecurring adoption expenses apply to adoptions which have been legally finalized or disrupted prior to finalization.
2. The adoptive parent(s) and the agency concur that the provisions of this agreement will apply only to:
  - a) Nonrecurring adoption expenses incurred or paid by the adoptive parent(s).
  - b) Nonrecurring adoption expenses paid by the agency on behalf of the adoptive parent(s).
3. The adoptive parent(s) and the agency concur that payment or reimbursement will include only those nonrecurring adoption expenses for which a bill or fee has been charged and for which the adoptive parent(s) are ultimately liable (*i.e. the cost of services that the Agency is not required to provide or to pay*).

### SECTION III: SPECIFIC TERMS OF THE AGREEMENT

The adoptive parent(s) and the agency agree to the following procedures for payment or reimbursement of the nonrecurring expenses of adoption with the understanding that total payments or reimbursement will not exceed \$1,000 per child for each adoption. Check each arrangement below which applies to this agreement.

1. The agency has reimbursed \_\_\_\_\_, and/or agrees to provide reimbursement to \_\_\_\_\_, the adoptive parent(s), for the following adoption expenses following payment by the adoptive parent(s)

- |  |   |
|--|---|
| <input type="checkbox"/> Adoption Home Study                                     | <input type="checkbox"/> Reasonable and necessary Adoption Fees |
| <input type="checkbox"/> Health Examination Related to the Adoption Study        | <input type="checkbox"/> Supervision of the Placement           |
| <input type="checkbox"/> Legal Expenses  | <input type="checkbox"/> Transportation, Lodging and Food       |
| <input type="checkbox"/> Psychological Examination Related to the Adoption Study |   |

2. The agency has paid \_\_\_\_\_, and agrees to make payment(s) to \_\_\_\_\_, service provider(s) on behalf of the adoptive parent(s) for the following adoption expenses incurred by the adoptive parent(s)

- |  |   |
|--|---|
| <input type="checkbox"/> Adoption Home Study                                     | <input type="checkbox"/> Reasonable and necessary Adoption Fees |
| <input type="checkbox"/> Health Examination Related to the Adoption Study        | <input type="checkbox"/> Supervision of the Placement           |
| <input type="checkbox"/> Legal Expenses  | <input type="checkbox"/> Transportation, Lodging and Food       |
| <input type="checkbox"/> Psychological Examination Related to the Adoption Study |   |

3. The agency agrees to submit a claim on behalf of the adoptive parent(s) to the Ohio Department of Job and Family Services for payment or reimbursement of the following nonrecurring adoption expenses incurred or paid by the adoptive parent(s)

- |  |   |
|--|---|
| <input type="checkbox"/> Adoption Home Study                                     | <input type="checkbox"/> Reasonable and necessary Adoption Fees |
| <input type="checkbox"/> Health Examination Related to the Adoption Study        | <input type="checkbox"/> Supervision of the Placement           |
| <input type="checkbox"/> Legal Expenses  | <input type="checkbox"/> Transportation, Lodging and Food       |
| <input type="checkbox"/> Psychological Examination Related to the Adoption Study |   |

**SECTION IV: PAYMENT OR REIMBURSEMENT IF NONRECURRING EXPENSES EXCEED \$1,000**

In the event that nonrecurring expenses for the adoption of an individual child exceeds \$1,000, the agency agrees that the adoptive parent(s) may choose the expenses to claim for payment or reimbursement from among the expenses they have not received previous payment or reimbursement.

**SECTION V: VERIFICATION BY THE ADOPTIVE PARENT(S)**

1. The adoptive parent(s) states that they have incurred expenses, or expects to incur expenses which are necessary to complete the placement and adoption of a child with special needs or a substantial risk, with no manifestation of a special need as defined by rule 5101:2-49-03 of the Ohio Administrative Code.
2. The adoptive parent(s) states that the nature and the amounts of the nonrecurring expenses listed in Section III will be accurately reported and documented.
3. The adoptive parent(s) agrees to verify the nonrecurring adoption expenses for which they have received payment or reimbursement from the agency, or which the agency has paid to a service provider in their behalf.
4. The adoptive parent(s) agrees to submit a claim for payment or reimbursement and proof of expenditures only for those additional nonrecurring adoption expenses for which they are financially responsible within two years of the adoption finalization or an adoption disruption before finalization.
5. The adoptive parent(s) understands that if an agreement cannot be reached in the determination of the child as a child with special needs, or the nature and amount of expenses which are eligible for payment or reimbursement, they are entitled to a state hearing in accordance with the policies and procedures contained in Chapter 5101:6-2 of the Ohio Administrative Code.

**SECTION VI: VERIFICATION BY THE AGENCY**

1. The agency has determined that the adopted child is a child with special needs or a substantial risk, with no manifestation of a special need in accordance with rule 5101:2-49-03 of the Administrative Code.
2. The agency asserts that a copy of this agreement, along with accurate documentation of the nonrecurring adoption expenses itemized in Section III of this agreement, will be maintained in the case record.
3. The adoptive parent(s) and the Agency concur that payment or reimbursement for nonrecurring adoption expenses will not exceed the total sum of \$1,000 for each child.

**SECTION VII: AMENDMENT OF THE AGREEMENT**

The adoptive parent(s) and the agency concur that this agreement may be amended by mutual consent at any time prior to the finalization of adoption subject to the conditions of Rule 5101:2-49-21 of the Administrative Code.

Adoptive Parent's Signature	Date
Adoptive Parent's Signature	Date
Authorized Agency Representative's Signature	Date

A signed copy of this Agreement was given/mailed to the adoptive parent(s) on: \_\_\_\_\_  
Date (mm/dd/yyyy)

## APPLICATION FOR REIMBURSEMENT OF TITLE IV-E NONRECURRING ADOPTION EXPENSES

Date of Application (mm/dd/yyyy)		Case or ID Number (Completed by Agency)	
<b>SECTION I: AGENCY INFORMATION</b>			
Name of Public Children Services Agency			
Address (City, State and Zip Code)			Telephone Number
<b>SECTION II: ADOPTIVE PARENT(S)</b>			
Name of Adoptive Parent (First and Last)		Name of Adoptive Parent (First and Last)	
Address		City, State and Zip Code	Telephone Number
<b>SECTION III: ADOPTIVE CHILD</b>			
Name of Adoptive Child (First and Last)			<input type="checkbox"/> Female <input type="checkbox"/> Male
Date of Birth (mm/dd/yyyy)		Expected Date of Finalization (mm/dd/yyyy)	
<b>SECTION IV: SPECIAL NEEDS CERTIFICATION</b>			
A. Is there a determination that the child cannot and should not be returned to the home of the specified relative? <input type="checkbox"/> Yes <input type="checkbox"/> No Documentation Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, what documentation is being attached?</b>			
B. Is there documentation that the child has a specific factor or condition, or a combination of factors or conditions that makes it difficult to place the child with an adoptive parent(s) without the provision of adoption assistance or medical assistance? <input type="checkbox"/> Yes <input type="checkbox"/> No Documentation Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, what documentation is being attached?</b>			
C. Is there documentation that the child has been determined to be at substantial risk, with no manifestation of a special needs factor? <input type="checkbox"/> Yes <input type="checkbox"/> No Documentation Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, what documentation is being attached?</b>			
D. The PCSA has determined except where it would be against the best interest of the child, a reasonable but unsuccessful effort to place the child with appropriate adoptive parent(s) without providing adoption assistance has been made? <input type="checkbox"/> Yes <input type="checkbox"/> No Documentation Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, what documentation is being attached?</b>			
<b>SECTION V: SIGNATURES</b>			
Signature of Adoptive Parent		Date	Signature of Adoptive Parent
			Date
<b>SECTION VI: DISPOSITION (FOR AGENCY USE ONLY)</b>			
This application relates only to the applicant's eligibility for the Reimbursement of Nonrecurring Adoption Expense Program. Specific items to be paid or reimbursed shall be addressed on the JFS 01438, "Agreement For Payment Or Reimbursement For Nonrecurring Expenses Incurred In The Adoption of a Special Needs Child."			
This application for reimbursement of nonrecurring adoption expenses has been: <input type="checkbox"/> Approved <input type="checkbox"/> Denied Reason for Denial			
Signature of Authorized Agency Representative			Date (mm/dd/yyyy)

**SECTION VII: RIGHT TO A STATE HEARING**

You have a right to a state hearing before the Ohio Department of Job and Family Services if your application is denied or if you disagree with any other actions taken on your application. For a complete explanation of your hearing rights and the hearing process, please read JFS 04059 "Explanation of State Hearing Procedures." A copy of the JFS 04059 should be given to applicant along with this application.



**ASSISTANCE AGREEMENT**

The following assistance agreement, hereinafter called "the agreement" has been entered into by and between hereinafter called "agency," and the adoptive/adopting parent(s), hereinafter called the "adoptive parent(s)," residing at

This is an:     Initial Agreement                       Amended Agreement  
 Family has an approved Nonrecurring Agreement per rule OAC 5101:2-49-21 (*please attach JFS 01438 "Agreement for Payment of Reimbursement for Title IV-E Nonrecurring Expenses incurred in Adoption of a Child."*)

**ARTICLE I: GENERAL PROVISIONS**

1. The adoptive parent(s) intends to adopt or has adopted a child that is (*please check one below*):
  1.  Under the permanent custody of \_\_\_\_\_ (*Agency Name*) or
  2.  Eligible for AA through an independent adoption.
2. The adoptive name of the child is \_\_\_\_\_ (*Child's Name*)
3. Adoption assistance may begin no earlier than the date the child is placed for adoption. The adoption assistance agreement must be signed by the adoptive parent(s) and the agency prior to the adoption finalization, unless the child is determined eligible for adoption assistance after the adoption finalization as the result of an appeal through the state hearing system.
4. The initial adoption assistance agreement or any that is subsequently amended shall remain in effect regardless of the county or state in which the adoptive parent(s) and the adoptive child are residents.
5. The agreement remains in effect as long as the adoptive parent(s) continues to be legally responsible for the child's care and **continues to provide support for the child through the month of the child's eighteenth birthday**, or 21 years of age if the child has a physical or mental disability or medical condition.
6. The adoption assistance payment shall be provided to assist the adoptive parent(s) in incorporating the child into the adoptive family and meeting any special needs of the adoptive child. The adoption assistance payment is not restricted to meeting the daily support of the child, but may be used or put aside to fund any other needs of the child, including such services as education.
7. The agreement may be amended or terminated at any time by the mutual consent of the adoptive parent(s) and the agency.
8. Both the adoptive parent(s) and agency are legally bound by this agreement.

**ARTICLE II: OBLIGATIONS OF ADOPTIVE PARENT(S)**

1. The adoptive parent(s) will
  - Notify the agency within fifteen calendar days of a change if the adoptive parent(s) is no longer legally responsible for the child's care, no longer providing support to meet the child's needs, or the child emancipated.
  - Notify the agency within fifteen calendar days when the family and/or child has a change of address or relocates.
  - Comply with any interstate requirements for adoption assistance in the event that the family moves to another state.
  - Notify the PCSA if health care insurance coverage is made available to the child and submit the ODM 06612 "Health Insurance Information Sheet" (Rev. 9/2016).
  - Provide documentation that the child is enrolled in school or is incapable of attending school full-time by completing and returning the JFS 1451-B "Title IV-E Adoption Assistance Annual Assurance of Legal Responsibility, School Attendance and Eligibility for Continued Medicaid Coverage" (Rev. 7/2019).

**ARTICLE III: OBLIGATION OF THE AGENCY ADMINISTRATION**

1. The agency will notify the adoptive parent(s) of changes in agency, state, or federal policy that have a potential affect on the amount of the adoption assistance payment.
2. The agency will verify annually the child's continuing eligibility for adoption assistance. The criteria for continuing eligibility are:
  - The adoptive parent(s) continues to be legally responsible for the child's care.
  - The adoptive parent(s) continues to provide support for the child.
  - The child is under 18 years of age, or 21 years of age if the child has a physical or mental disability or medical condition.

**ARTICLE IV: ADOPTION ASSISTANCE PAYMENT**

1. The agency has provided the adoptive parent(s) with all information known about the child's family background and medical history.
2. The agency has discussed the child's emotional, medical, mental, developmental or physical diagnoses in light of the child's family background and medical history.
3. The agency and the adoptive parent(s) have had ongoing discussion about the child's needs and the adoptive parent's/parents' ability to incorporate a child with special needs into the adoptive family.
4. The agency has presented the adoptive parent(s) with information about the following adoption assistance programs: Title IV-E adoption assistance, Nonrecurring, SAMS, PASSS, and AAC.
5. Adoption assistance payments in the amount of \$ \_\_\_\_\_ per month will be provided on behalf of (child's adoptive name) \_\_\_\_\_ for the identified service needs to begin on (MM/DD/YY) or adoption finalization.
6. The agency may negotiate the payment amount every \_\_\_\_\_. The agency may request documentation by a qualified professional in accordance with 5101:2-49-03.

**ARTICLE V: MEDICAL CARE**

1. The child is eligible for Medicaid benefits provided under Title XIX of the Social Security Act for as long as the agreement is in effect.
2. The child is eligible for Medicaid benefits in the state where the child resides.

**ARTICLE VI: TITLE XX SOCIAL SERVICES AND OTHER SERVICES**

1. The child is eligible for Title XX funded social services as long as the agreement is in effect.
2. The child is eligible for Title XX funded social services in the state in which the child resides. If a needed service(s) specified in the adoption assistance agreement is not available in the new state of residence, the state making the original adoption assistance payments remains financially responsible for providing the specified service(s).
3. If the adoptive child moves to another Ohio county, the child will be provided with Title XX funded social services in the county where the child resides. If any of the Title XX funded social services specified in the adoption assistance agreement are not available in the county where the child resides, the county which entered into the adoption assistance agreement shall be responsible for providing/securing those services. Nothing shall prohibit the adoptive parent(s) from applying for Title XX funded social services in the county of residence, even if the services are not already specified in the adoption assistance agreement.
4. The child will be provided the following Title XX funded social services.

5. The agency shall provide or secure funding for the following services, whether or not they are available through Title XX.

**ARTICLE VII: SUSPENSION**

The adoption assistance payment is subject to suspension if the PCSA cannot establish contact with the adoptive parent(s) to determine if the adoptive parent(s) is providing any support to the child after concerted efforts were made in accordance with 5101:2-49-11.

**ARTICLE VIII: TERMINATION**

1. The agreement is subject to termination when the child reaches the age of 18, unless the child has a physical or developmental disability. If the child has a physical or mental disability or medical condition, the agreement may continue until the child reaches the age of 21 pursuant to 5101:2-49-04.
2. The agreement is subject to termination if the agency determines that the adoptive parent(s) is no longer legally responsible for the child's care, no longer providing support to meet the child's needs, or the child emancipates.

**ARTICLE IX: APPEAL**

1. The adoptive parent(s) may appeal any agency decision to deny, reduce, suspend or terminate adoption assistance or to deny the amount of adoption assistance payment requested by the adoptive parent(s).
2. The agency must inform the adoptive parent(s) in writing of any decision to deny, reduce, suspend or terminate adoption assistance or to deny the amount of the adoption assistance payment requested by the adoptive parent(s). The notice of denial must inform the adoptive parent(s) of the right to appeal through a state hearing as well as the procedure for requesting a state hearing.
3. The adoptive parent(s) may also appeal through a request for a state hearing in any case in which the agency fails to inform the adoptive parent(s) about potential financial, medical, or service benefits that may be available to the child through the Title IV-E adoption assistance program.

**ARTICLE X: AGREEMENT EFFECTIVE DATE**

1. This agreement is effective on .
2. This agreement shall be signed, dated and in effect prior to the final order of adoption.
3. Payments and services shall not begin prior to the effective date and signatures.

**SIGNATURES**

Adoptive Parent's Signature	Date (mm/dd/yyyy)
Adoptive Parent's Signature	Date (mm/dd/yyyy)
Agency Representative's Signature	Date (mm/dd/yyyy)

Agency Director or Designee Approval	Date (mm/dd/yyyy)
A signed copy of this Agreement was given/mailed to the adoptive parent(s) on: Date (mm/dd/yyyy)	