

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: Adoption Assistance Rules – Part 1

Rule Number(s): 5101:2-49-01

Date: 1/13/2014

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

5101:2-49-01 “Administration of the Adoption Assistance program” outlines the Adoption Assistance (AA) administrative requirements for Public Children Services Agencies (PCSAs). The title of the rule has been amended and paragraph (A) has

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been added to include the responsibilities of the Title IV-E Agency in the administration of the adoption assistance program. The JFS 01451 "Title IV-E Adoption Assistance Application" (rev. 1/2014) has been updated to add a separate section for the signature(s) of the adoptive parent and the revision date will be updated. The JFS 01451-A "Title IV-E Adoption Assistance Eligibility Determination" (rev. 1/2014) has been updated to include all eligibility requirements for an applicable and non-applicable child and shall be used to determine eligibility until the Statewide Automated Child Welfare Information System (SACWIS) is updated with the adoption assistance eligibility requirements. Paragraph (F) outlines the PCPA requirements.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Rule	Authorizing Statute
5101:2-49-01	5101.141

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

Yes. Title IV-E of the Social Security Act, 94 Stat. 501, 42 U.S.C. 670 (1980) section 473, as amended requires the Department of Job and Family Services to administer the adoption assistance program.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This rule does not exceed federal requirements.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

5101:2-49-01 – ODJFS is the state agency that is responsible for administering the Title IV-E program. In Ohio the Title IV-E program is a county administered by Public Children Service Agencies (PCSA) and is state supervised. Under the authority of ORC 5101.141, ODJFS drafts standards for the Title IV-E agencies to administer the program. It is the responsibility of the Private Child Placing Agencies (PCPAs) who hold permanent custody of a child to inform all adoptive parents about the adoption assistance program and provide the PCSA with documents to help them determine adoption assistance eligibility for a child with special needs.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success is measured in great part by and through the language of this rule that ensure the Adoption Assistance program is administered correctly and funds are distributed and reimbursed to adoptive parents who qualify to receive them; through the proper placement of children; by improving outcomes for children in need of a permanent family; by increasing the number of successful adoptions; and by providing adoption assistance, if eligible, based on federal guidelines from section 473 of the Social Security Act.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

Through the Partners for Ohio's Families (PFOF) rule review initiative which started in 2012, ODJFS met with stakeholders from Public Children Service Agencies, Private Child Placing Agencies, Adoption Advocates and adoptive parents to gather information. Many discussions were held to amend the rules to provide clarity and equity for the Title IV-E agencies and adoptive parents.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

This rule was reviewed and revised with the interested parties' involvement and language was established that was agreeable to all through the PFOF rule review initiative. This rule went through the clearance process (clearance control number 7468) with an official clearance comment period from November 18, 2013 through December 2, 2013, but our agency accepted comments from interested parties until the original file with over 18 individuals from public children service agencies (PCPA), private children placing agencies (PCPA), private non-profit foster care agencies, adoptive parents, adoption advocates such as North American Council on Adoptable Children (NACAC) and Ohio Family Care Association and staff from the Office of Families and Children commenting on the entire rule package.

After reviewing the comments for this rule, minor language changes were made to provide more clarity. If the changes couldn't be incorporated in the rule because they were not within the federal guidelines for the adoption assistance program, an explanation was provided, for example one of the responsibilities of the PCSA listed in paragraph (A)(4)(b) is ensuring that all possibilities for an adoptive home without the assistance of AA are explored. It is a requirement for the Title IV-E agency (PCSA) to try to find an adoptive home without providing adoption assistance or medical assistance. This requirement is outlined in Section 473(c)(2)(C) of the Social Security Act which requires state to make reasonable, but unsuccessful efforts to place a child with appropriate adoptive parents without providing adoption assistance or medical assistance. This is also a Title IV-E state plan requirement as outlined in Section 471 of the Social Security Act.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not Applicable.

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10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

There are no alternative regulations because ODJFS is required to administer the Title IV-E adoption assistance program pursuant to section 473 of the Social Security Act and 5101.141 of the Ohio Revised Code.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The state followed federal regulations driven by section 473 of the Social Security Act and 5101.141 of the Ohio Revised Code.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

There is no duplication as this rule is specific to the administration of the adoption assistance program and no other rules address these specific issues. This rule was reviewed by the PFOF rule review team, Public Children Services Agency Organization (PCSAO), adoptive parents and adoption advocates, members of the North American Council on Adoptable Children (NACAC), members of Ohio Family Care Association and legal staff at ODJFS to ensure they do not duplicate any existing Ohio regulations.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

ODJFS is following federal guidelines as outlined in section 473 of the Social Security Act. The adoption assistance program is monitored by ODJFS through case record reviews to ensure compliance with the rule standards. This process is measured by the number of adopted children determined eligible for the adoption assistance program that find permanent homes.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

There are 58 PCPAs in Ohio that will be impacted by this.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

If the PCPAs do not provide the information about the adoption assistance program to the adoptive parents, the parents will not be informed about the adoption assistance program that can assist them in incorporating an adopted child into their family. The adverse impact includes the time and money involved in providing copies of the JFS 01616, 01673, 01692 and other information to the PCSA and

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providing adoption assistance information to each person that inquires about adoption.

c. Quantify the expected adverse impact from the regulation.

The PCPAs are required to complete a homestudy on each adoptive family with whom they are placing a child. Part of the homestudy process involves completing the following forms JFS 01616 “Social and Medical History”, JFS 1673 “Assessment for Child Placement”, JFS 01692 “Application for Adoption of a Foster Child” and any out-of-state approved homestudy forms. These forms are required to be sent to the Public Children Services Agency so that agency can determine eligibility for the adoption assistance program. A homestudy is unique to each adoptive parent and used to gather information to determine if the potential adoptive family can be approved for adoption and then to find a child that fits into the adoptive family. Some of the component parts of the homestudy include: criminal background checks, domestic violence checks, social and medical information of the adoptive parents, home safety, fire safety, bedroom capacity, determining what type of child the prospective adoptive parent is willing to adopt, etc.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

ODJFS is driven by section 473 of the Social Security Act to administer the adoption assistance program.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

There are no alternative means for compliance.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

For rule 5101:2-49-01 there are no fines or civil penalties for non-compliance, but if the Private Child Placing Agency (PCPA) does not inform the adoptive parent about the program the adoptive parent will not know to make an application for the adoption assistance program.

18. What resources are available to assist small businesses with compliance of the regulation?

The required forms are available on the ODJFS website under forms on the internet at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E). There is also a JFS 01985 “Adoption Subsidies Guide” (rev.11.2013) that explains programs that are available for adopted children.