



January 31, 2022

Family, Children and Adult Services Manual Transmittal Letter No. 486

TO: Family, Children and Adult Services Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Amendment of Title IV-E Foster Care Maintenance Rules 5101:2-47-03.1, 5101:2-47-17 and 5101:2-33-29 of the Administrative Code.

This letter transmits amendment to three Ohio Administrative Code (OAC) rules 5101:2-33-29, 5101:2-47-03.1 and 5101:2-47-17. The rules will be effective on February 7, 2022.

The following is a brief explanation of the changes.

OAC 5101:2-33-29 entitled **Verification of United States citizenship and immigration status for all children in foster care**. This rule explains what can be used to verify citizenship for all children in foster care. There were minor changes to the rule to add clarity.

Ohio Administrative Code rule 5101:2-47-03.1 entitled **Qualified and Disqualified Non-Citizen Eligibility for Foster Care Maintenance and Independent Living Services**, outlines the foster care maintenance (FCM) eligibility requirements for qualified non-citizens. The title and language in the rule using the word, “alien” was replaced with “non-citizen,”

OAC 5101:2-47-17 entitled **Foster care maintenance program reimbursability: Reimbursements for FCM and child care for public foster homes, relative homes, and pre-finalized adoptive homes**. This rule outlines when FCM reimbursement is available for employment-related child care and child care when the foster parent is required to participate, without the child, in activities associated with parenting a child in foster care that are beyond the scope of ordinary parental duties may be authorized for a FCM reimbursable child placed in a foster home, relative home licensed as a foster home or pre-finalized adoptive home provided that the child care provider is licensed or certified. A reference to the child care rule 5101:2-16-01 has been changed to rule 5101:2-16-10 of the Administrative Code.

INSTRUCTION:

The following chart shows what materials should be inserted into the Family, Children and Adult Services Manual (FCASM).

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
MANAGEMENT AND ADMINISTRATION	5101:2-47-03.1	5101:2-47-03.1
	5101:2-47-17	5101:2-47-17
	5101:2-33-29	5101:2-33-29
TRANSMITTAL LETTERS	FCASMTL No. 399	FCASMTL No. 486

5101:2-33-29

Verification of United States citizenship and immigration status for all children in foster care.

(A) All Title IV-E agencies shall verify United States (U.S.) citizenship and immigration status for all children in foster care regardless of whether Title IV-E foster care maintenance (FCM) payments are made on their behalf.

(B) Documents that verify citizenship are:

- (1) A U.S. birth certificate.
- (2) A U.S. passport, unless it is authorized with a limitation; limited passports are issued through the department of homeland security (DHS).
- (3) A certification of birth issued by the department of state (form DS-1350).
- (4) A report of birth abroad of a U.S. citizen (form FS-240).
- (5) A certificate of birth abroad (FS-545).
- (6) A U.S. citizen identification card (I-197).
- (7) A certificate of naturalization (N-550 or N-570).
- (8) A certificate of U.S. citizenship (N-560 or N-561) for children who derived their citizenship through a parent.
- (9) An extract from a hospital record on hospital letterhead established at the time of the individual's birth that was created at least five years before the initial date of custody, and indicates a U.S. place of birth. For a child under sixteen, the document must have been created near the time of birth.
- (10) A life insurance, health insurance, or other insurance record showing a U.S. place of birth and created at least five years before the initial date of custody. For children under sixteen, the document must have been created near the time of birth.
- (11) A statement provided from a U.S. consular officer certifying that the individual is a U.S. citizen.
- (12) An American Indian card (I-872) issued by the department of homeland security (DHS) with the classification code "KIC" and a statement on the back identifying U.S. citizenship of members of the Texas band of Kickapoos living near the United States/Mexican border.

- (13) A state match with the state data exchange (SDX) for supplemental security income (SSI).
 - (14) Birth information obtained by the Title IV-E agency through Ohio department of job and family services (ODJFS)-authorized data exchanges or data sharing agreements.
 - (15) A federal or state census record showing U.S. citizenship or a U.S. place of birth, including an individual's age.
 - (16) Native American tribal documents, including but not limited to:
 - (a) A Seneca Indian tribal census record.
 - (b) The bureau of Indian affairs tribal census records of the Navajo Indians.
 - (c) A certificate of Indian blood.
 - (d) U.S. American tribal documents.
 - (e) Other native American tribal documents.
 - (17) Affidavits may be used only in rare circumstances when the agency is unable to secure evidence of citizenship from another listing. Affidavits are signed under penalty ~~or~~ of perjury, but need not be notarized. If the documentation requirement needs to be met through affidavits, the following rules apply:
 - (a) There shall be at least two affidavits by people who have personal knowledge of the event(s) establishing the individual's claim of citizenship. The two affidavits could be combined in a joint affidavit. At least one of the persons making the affidavit cannot be related to the individual and neither person can be the individual.
 - (b) Persons making the affidavit must be able to provide proof of their own citizenship. The persons making the affidavit shall have information which explains why documentary evidence establishing the individual's claim of citizenship does not exist or cannot be readily obtained.
- (C) For all children who are determined non-citizens, the Title IV-E agency shall obtain verification of their ~~alien~~ immigration status.
- (D) A qualified ~~alien~~ non-citizen status shall be verified by one of the following:

- (1) ~~An alien~~ A non-citizen who is lawfully admitted for permanent residence (I-551) or (I-94) under the Immigration and Nationality Act of 1952 (INA).
 - (2) ~~An alien~~ A non-citizen who is granted asylum (I-94) under section 208 of the INA.
 - (3) A refugee ~~(I-94) or (I-571)~~ (I-94 or I-571) who is admitted to the U.S. under section 207 of the INA.
 - (4) ~~An alien~~ A non-citizen whose deportation is being withheld ~~(I-688B) or (I-766)~~ (I-688B or I-766) under section 243(h) or section 241 (b)(3) of the INA.
 - (5) ~~An alien~~ A non-citizen who is granted conditional entry (I-94) pursuant to section 203(a)(7) of the INA.
 - (6) A Cuban or Haitian entrant (I-551).
 - (7) ~~An alien~~ A non-citizen or the child or parent of ~~an alien~~ a non-citizen who has been battered or subjected to extreme cruelty in the U.S.
 - (8) An Afghan or Iraqi non-citizen granted special immigrant visa status under Section 8120 of the December 19, 2009 Defense Appropriations Bill (Pub. L. No. 111-118) and section 101(a)(27) of the INA (as in effect October 1, 2019).
- (E) If a mother is a naturalized U.S. citizen and the baby was not born in the U.S., the baby's citizenship status would depend on whether the baby was born before or after the mother became a U.S. citizen. In most cases, when the parent becomes a naturalized U.S. citizen and the baby is living with the parent in the U.S., the baby would also become a U.S. citizen.
- (F) A child who is in the U.S. under a visitor or tourist's visa or under a student arrangement does not meet the ~~qualified alien~~ non-citizen status.
- (G) All U.S. citizenship and immigration status verification documentation shall be kept in the child's case record regardless of the child's status.
- (H) For a child who enters foster care, the Title IV-E agency shall verify citizenship or immigration status within sixty days of entrance.

Effective: 2/7/2022

Five Year Review (FYR) Dates: 11/23/2021 and 02/07/2027

CERTIFIED ELECTRONICALLY

Certification

01/28/2022

Date

Promulgated Under: 119.03
Statutory Authority: 5153.166
Rule Amplifies: 5153.16
Prior Effective Dates: 03/15/2008, 05/01/2014

5101:2-47-03.1

Qualified and disqualified ~~alien non-citizen~~ eligibility for Title IV-E foster care maintenance (FCM) and independent living services.

- (A) ~~Effective August 22, 1996, foster~~ Foster care maintenance (FCM) reimbursements and independent living services as defined in Chapter 5101:2-42 of the Administrative Code may be paid on behalf of a child who meets the definition of a qualified ~~alien non-citizen~~ in rule 5101:2-1-01 of the Administrative Code.
- (B) A child who is a qualified ~~alien non-citizen, entering the United States on or after August 22, 1996, and is~~ placed in foster care shall be required to live in the United States for five years before there is eligibility for FCM or independent living services. Pursuant to section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), a child, who is in one of the following categories, is exempted from the residency requirement:
- (1) A child placed with a foster caregiver who is a United States citizen or a qualified ~~alien non-citizen~~.
 - (2) ~~An alien~~ A non-citizen admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act (INA) (05/2005).
 - (3) ~~An alien~~ A non-citizen who is granted asylum under section 208 of the INA.
 - (4) ~~An alien~~ A non-citizen whose deportation is being withheld under the INA.
 - (5) Cuban/Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, Pub. L. No. 96-422.
 - (6) Amerasian immigrants admitted to the United States pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, Pub. L. No. 100-202.
 - (7) A parolee allowed into the United States under section 212(d)(5) of the INA (as in effect October 1, 2019) for a period of at least one year.
 - (8) A person granted conditional entry pursuant to section 203(a)(7) of the INA (as in effect prior to April 1, 1980).
 - (9) A non-citizen or the child or parent of a non-citizen who has been battered or subjected to extreme cruelty in the U.S.
 - (10) An Afghan or Iraqi non-citizen granted special immigrant visa status under Section 8120 of the December 19, 2009 Defense Appropriations Bill (Pub. L. No. 111-118) and section 101(a)(27) of the INA (as in effect October 1, 2019).

(C) In addition to meeting the requirements of paragraph (B) of this rule, a child who is a qualified ~~alien~~ non-citizen is eligible to receive Title IV-E FCM payments if the following are met:

(1) The child is disqualified under section 245A (H), 210 (F) or 210 (D)(7) of the INA from meeting eligibility requirements for aid to dependent children (ADC) program in effect on July 16, 1996, as defined in rule 5101:2-47-14.1 of the Administrative Code:

(a) In the month in which a JFS 01645 "Agreement for Temporary Custody of Child" (~~rev. 4/2006~~) was entered into.

(b) In the month court proceedings leading to the removal of the child from the home of a specified relative were initiated.

(2) The child meets all other eligibility requirements of Chapter 5101:2-47 of the Administrative Code.

(D) ~~An alien~~ A non-citizen who meets the definition of a qualified ~~alien~~ non-citizen in rule 5101:2-1-01 of the Administrative Code, is eligible to become a foster caregiver and receive Title IV-E FCM or independent living services for an eligible child.

~~(E) An alien who does not meet the definition of a qualified alien in rule 5101:2-1-01 of the Administrative Code is an unqualified alien. An unqualified alien is eligible to become a foster caregiver and receive Title IV-E FCM or independent living services for an eligible child who entered the United States on or after August 22, 1996, and the child is a United States citizen or is in one of the accepted groups as defined in paragraph (B) of this rule, or has lived in the United States as a qualified alien for five years.~~

~~(F)~~(E) A child who is a qualified ~~alien~~ non-citizen and is eligible for Title IV-E FCM shall be eligible for Title XIX medicaid coverage.

~~(G)~~(F) Citizenship or immigration status must be verified in the following cases:

(1) For all children in receipt of Title IV-E FCM payments or independent living services.

(2) For the foster caregiver with whom the qualified ~~alien~~ non-citizen child is placed.

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5101:2-47-17

Title IV- E foster care maintenance (FCM) program reimbursability: Reimbursements for FCM and child care for public foster homes, relative homes, and pre-finalized adoptive homes.

- (A) Uniform statewide standards for FCM minimum and maximum reimbursement amounts for public foster homes, relative homes licensed as foster homes and pre-finalized adoptive homes that continue to receive FCM reimbursements have been established by the Ohio department of job and family services (ODJFS). These amounts shall be updated annually by the issuance of a "Family, Children and Adult Services Procedure Letter" and are the minimum and maximum amounts that can be authorized for FCM reimbursements for a child placed in the substitute care settings.
- (1) If there is a difference between the statewide maximum reimbursement amount and a higher Title IV-E agency payment amount, the Title IV-E agency shall supplement payments without benefit of federal financial participation (FFP) under Title IV-E.
 - (2) If there is a difference between the statewide minimum reimbursement amount and a lesser Title IV-E agency payment amount, the Title IV-E agency shall not claim FCM funds to support the placement of the child.
- (B) FCM reimbursements for employment-related child care and child care when the foster parent is required to participate, without the child, in activities associated with parenting a child in foster care that are beyond the scope of ordinary parental duties may be authorized for a FCM reimbursable child placed in a foster home, relative home licensed as a foster home or pre-finalized adoptive home provided that the child care provider is licensed or certified.
- (1) The maximum child care reimbursement to the Title IV-E agency shall not exceed the amounts referenced in rule ~~5101:2-16-41~~ 5101:2-16-10 of the Administrative Code.
 - (2) The definitions for the age categories are contained in rule 5101:2-16-01 of the Administrative Code. Reimbursements for child care, as described in this rule, may be authorized for a foster child between the ages of thirteen and eighteen who qualifies for a difficulty of care payment referenced in rule 5101:2-47-18 of the Administrative Code.
 - (3) Child care, as described in this rule, shall be claimed for reimbursement through the Ohio statewide automated child welfare information system (SACWIS).
- (C) "Relative homes" and "pre-finalized adoptive homes" as used in this rule mean a licensed/certified/approved foster home.

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