



June 3, 2022

Family, Children and Adult Services Manual Transmittal Letter No. 497

TO: Family, Children and Adult Services Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Amendment of Rules 5101:2-44-13 and 5101:2-44-13.1

This letter transmits changes to Ohio Administrative Code (OAC) rules 5101:2-44-13 and 5101:2-44-13.1 resulting from the passage of House Bill 110 of the 134th General Assembly (HB 110) that included statutory changes requiring the Post Adoption Special Services Subsidy Program (PASSS) be state-administered by the Ohio Department of Job and Family Services (ODJFS).

Due to the amount of change in content and language in these rules, both rules are rescinded and replaced as new rules, and will be effective July 1, 2022. The following is a brief explanation of the rule changes, along with a list of seven new or revised forms for implementation of PASSS as a state-administered program.

OAC 5101:2-44-13, entitled **Public Children Services Agency (PCSA) Administration of the Post Adoption Special Services Subsidy (PASSS) Program** provides guidance to families seeking PASSS funding through the state-administered program. The rule outlines the process to apply for PASSS funds including the approval and denial process. This rule also describes how PASSS funds may be used by the family. The title of the rule has changed to **Administration of the Post Adoption Special Services Subsidy (PASSS) Program**.

OAC 5101:2-44-13.1, entitled **Eligibility and Application Process for the Post Adoption Special Services Subsidy (PASSS) Program** details who is eligible for PASSS funding through the state-administered program. The rule outlines the forms and documents that are necessary to apply for funding. The funding amounts are explained and the rule details what services cannot be paid for with PASSS funding.

New and Revised Forms:

JFS 01049 Verification of Treatment Form is a new form that will be used to request any treatment plans that have not been submitted as part of the application process.

JFS 01050 Application for Post Adoption Special Services Subsidy was revised to remove references to the PCSAs in the application process.

JFS 01050-I Instructions for Completing JFS 01050, Application for Post Adoption Special Services Subsidy was revised to remove references to the PCSAs in the application process.

JFS 01051 Application for Additional Post Adoption Special Services Subsidy (PASSS) Funding for Extraordinary Circumstances was revised to remove references to the PCSAs in the application process.

JFS 01051-I Instructions for Completing JFS 01051, Application for Additional Post Adoption Special Services Subsidy (PASSS) Funding for Extraordinary Circumstances was revised to remove references to the PCSAs in the application process.

JFS 01052 Credentials of Professional Providers of PASSS Funded Therapeutic Services and Memorandum of Understanding was revised to include additional payment information.

JFS 01052-I Instructions for Completing the JFS 01052, Credentials for Providers of PASSS Funded Therapeutic Services and Memorandum of Understanding was revised to explain the information being requested.

INSTRUCTIONS: The following chart indicates the material that should be removed from the Family, Children and Adult Services Manual (FCASM) and the materials that are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Management and Administration	OAC 5101:2-44-13	OAC 5101:2-44-13
Management and Administration	OAC 5101:2-44-13.1	OAC 5101:2-44-13.1

Forms		JFS 01049
	JFS 01050	JFS 01050
	JFS 01050-I	JFS 01050-I
	JFS 01051	JFS 01051
	JFS 01051-I	JFS 01051-I
	JFS 01052	JFS 01052
	JFS 01052-I	JFS 01052-I
Transmittal Letters		FCASMTL No. 497

5101:2-44-13.1 **Eligibility and application process for the post adoption special services subsidy (PASSS) program.**

- (A) Post adoption special services subsidy (PASSS) is a state-funded program designed to assist eligible adoptive families, after adoption finalization, to receive services consistent with paragraphs (G) through (P) of this rule.
- (B) PASSS funding is based on a state fiscal year (SFY), July first through June thirtieth. Once the application is approved the family is eligible from the first day of the month in which the completed application is approved, however the family may submit the invoice from the initial assessment or evaluation required as part of the application process. Applicants may only request funding for services rendered during the SFY in which the JFS 01050 "Application for a Post Adoption Special Services Subsidy" is made. A new JFS 01050 is to be submitted if additional services are requested during the same SFY or any subsequent SFY. The new application is to contain updated information, if applicable, as outlined in paragraph (F) of this rule, including updated financial information.
- (C) Pursuant to section 5101.1418 of the Revised Code administration of PASSS will transition to the Ohio department of job and family services effective July 1, 2022. All invoices for services approved for SFY 2022, are to be paid by the PCSA and entered into Ohio SACWIS for reimbursement by the PCSA by September 30, 2022. The public children services agencies are not to accept PASSS applications for services that start after June 30, 2022. The PCSAs are to forward any applications for services that will start on or after July 1, 2022 to OhioKAN or ODJFS within fifteen calendar days of receiving the application.
- (D) All of the following requirements are to be met to be eligible for PASSS:
- (1) The child resides in Ohio and the home of the adoptive parent(s) in which the application is made.
 - (2) The child has been adopted by someone other than a step parent.
 - (3) The child has a physical or developmental disability or mental or emotional condition that either:
 - (a) Existed before the adoption petition was filed.
 - (b) Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background or medical history, or biological family's background or medical history.
 - (4) The child meets either of the following requirements:

(a) The child is under the age of eighteen.

(b) The child is at least eighteen years of age and less than twenty-one years of age and has been diagnosed with one of the disabilities defined in this paragraph:

(i) Mental or emotional disability is a mental illness or emotional disturbance that impairs the ability to meet activities of daily living.

(ii) Developmental disability is a developmental delay or intellectual disability that limits functioning.

(iii) Physical disability is a vision, speech or hearing impairment; congenital orthopedic impairment, orthopedic impairment caused by disease, or orthopedic impairment from other causes (e.g., amputation); impairment caused by chronic or acute health problems (e.g., rheumatic fever); or a concomitant of the aforementioned.

(5) Other sources of assistance are inadequate or are unavailable to meet the child's immediate needs.

(E) Families are to start the application process in person, online or by calling the Ohio kinship and adoption navigator (OhioKAN) program.

(F) OhioKAN staff are to submit a completed JFS 01050 "Application for Post Adoption Special Services Subsidy" with the following documentation to ODJFS:

(1) A clear written statement of the child's needs as defined in paragraph (D)(3) of this rule. The statement is to be supported by an assessment or evaluation from a qualified professional including an opinion as to the origin of the problem, past history, prognosis and recommendations related to future treatment needs. For the purpose of this rule, a qualified professional is defined as a licensed independent social worker (LISW), professional counselor licensed by section 4757.23 of the Revised Code, physician, physician assistant, certified nurse practitioner, chiropractor, dentist, orthodontist, psychiatrist, psychologist, or occupational, physical or speech therapist, a licensed social worker (LSW) or other licensed/certified professionals who are under the direct supervision of any of the professionals listed in this paragraph. The qualified professional is not to be responsible for providing public casework services to the child. The qualified professional's diagnosis of disability or condition is to be within the professional's area of expertise.

- (2) A completed JFS 01052 "Credentials of Professional Providers of PASSS Funded Therapeutic Services and Memorandum of Understanding," if applicable.
 - (3) A written statement that clearly indicates why the requested service is not within the resources of the family, a copy of the JFS 01681 "Applicant Financial Statement" and a copy of the family's most recent IRS tax return.
 - (4) A listing of community resources, as outlined on the JFS 01050, that have been contacted including the date and results of those contacts. OhioKAN staff is to work with the family to identify and exhaust other resources prior to submitting the JFS 01050.
 - (5) A copy of the relevant provisions in any public or private health insurance policy held by the family regarding the child's eligibility for services and the services that are covered under the policy.
 - (6) OhioKAN staff are to assist families in gathering any documentation needed.
- (G) As a condition of continued eligibility for PASSS funds, the adoptive parent(s) is to submit a copy of the child's treatment plan, completed by the service provider, which details the therapeutic intervention(s) that will be provided to the child for the period in which the JFS 01050 will be in effect. The treatment plan is to be submitted to ODJFS within forty-five days of the adoptive child's initial visit to the provider. If ODJFS has not received the treatment plan within forty-five days, ODJFS is to mail the family a JFS 01049 "Verification of Treatment Plan" letter.
- (H) If ODJFS does not receive the treatment plan by the sixtieth day PASSS funds are subject to suspension.
- (I) ODJFS may encumber PASSS funds for the reasonable costs of services for any of the following allowable services:
- (1) Medical and surgical services. All medical and surgical services are to be determined to be medically necessary by a qualified professional. The medically necessary service is to be the lowest cost alternative that effectively addresses and treats the child's medical problem(s). Medical and surgical services are not to include the cost of dental or orthodontia unless documentation can be provided that the service is medically necessary and meets the criteria of paragraphs (D)(3)(a) and (D)(3)(b) of this rule.
 - (2) Psychiatric, psychological, and counseling services. All psychiatric, psychological and counseling services are to be determined to be necessary by a qualified professional. These services can include:

- (a) Specialized therapeutic camps that offer services that are provided by a qualified professional listed in paragraph (F)(1) of this rule. The invoice for these services is to be itemized to indicate the cost of the therapeutic components of the program. Only the therapeutic cost will be covered these are not to include food or meals, lodging, or recreational activities.
- (b) Brain balance programs that offers services that are provided by a qualified professional listed in paragraph (F)(1) of this rule. The invoice for these services is to be itemized to indicate the cost of the therapeutic components of the program. Only the therapeutic cost will be covered.
- (3) Residential treatment, treatment foster care or in-patient hospitalization services (excluding private non-profit, therapeutic wilderness camps) if required by psychiatric, psychological or counseling needs and approved by a qualified professional.

 - (a) These services may include maintenance costs as long as the costs are included as part of a residential treatment, treatment foster care or in-patient hospitalization program.
 - (b) Residential treatment services are not to include the cost of educational services.
 - (c) Approved services for any type of residential treatment facility or treatment foster care home are to be provided by a residential facility or treatment foster care home that is licensed by the Ohio department of job and family services (ODJFS) or the Ohio department of mental health and addiction services (OMHAS) or a comparable agency which is recognized by a state or a similar licensing body.
- (4) Respite care services for the purpose of this rule are defined as services designed to provide planned or emergency temporary relief of child caring functions. Respite care services may provide planned or emergency short-term and time-limited breaks for families of children with medical, surgical or mental health needs of the child. Respite care services are to be administered by an independent provider who resides outside the family home. A relative may provide respite for a child that may have behaviors or needs that are best addressed by that provider. Respite care services are not hospice, regular child care, therapy, nursing services and other rehabilitative services. Respite care services may be approved for:

 - (a) Medical and surgical respite care services if required by medical or surgical needs of the child. Medical and surgical respite care services are not to

exceed two thousand four hundred dollars per child per SFY. ODJFS may elect, on a case by case basis, to approve up to an additional two thousand four hundred dollars per child per SFY for medical and surgical respite care services under special circumstances.

(b) Mental health respite care services if required by psychiatric, psychological or counseling needs. Mental health respite care services are not to exceed two thousand four hundred dollars per child per SFY. ODJFS may elect, on a case by case basis, to approve up to an additional two thousand four hundred dollars per child per SFY for mental health respite care services under special circumstances.

(J) Special circumstances may include:

(1) The family demonstrating a financial need.

(2) A written statement of the child's need from a qualified professional.

(K) Approved services are to address the child's physical or developmental disability or mental or emotional condition that either existed before the adoption petition was filed or developed after the adoption petition was filed and can be attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history.

(L) Approved services that involve any type of therapy are to be provided by a qualified professional, as outlined in this rule, and the JFS 01052, who is practicing within their scope of practice as noted by their education, training and experience. The provider is to indicate that their therapeutic interventions will comply with all treatment aspects contained in rules 5122-26-16, 5122-26-16.1, and 5122-26-16.2 of the Administrative Code.

(M) Invoices for approved services are to be dated after the approval date listed on the "Approval or Denial for Post Adoption Special Services Subsidy" report. The only exception is the initial assessment or evaluation as described in paragraph (F)(1) of this rule.

(N) Except as provided in paragraph (O) of this rule, no more than ten thousand dollars is to be encumbered for any one child in one SFY.

(O) If ODJFS determines that either of the following exists, the limit outlined in paragraph (N) of this rule may be increased up to five thousand dollars for a total of fifteen thousand dollars per child per SFY if:

- (1) The family's income and resources substantially decreased due to the involuntary loss of employment and the family has completed the JFS 01051 "Application for Additional Post Adoption Special Services Subsidy (PASSS) Funding for Extraordinary Circumstances."
- (2) A qualified professional as described in paragraph (F)(1) of this rule recommends residential treatment, in-patient hospitalization, or therapeutic foster care to prevent disruption of the adoption. This recommendation is to be submitted along with a copy of the JFS 01051.
- (P) If a family is requesting additional PASSS funding and meets the requirements outlined in paragraph (O) of this rule, ODJFS may review and approve the JFS 01051 along with the initial JFS 01050.
- (O) The adoptive parent or parents who receive PASSS funds are required to pay at least a five per cent co-pay of the total cost of all approved services provided to the child.

 - (1) If the gross income of the child's adoptive family is less than two hundred per cent of the federal poverty guideline, ODJFS may waive the five per cent requirement.
 - (2) If the service amount is higher than the approved amount, the adoptive parent is responsible for the co-pay percentage amount and the overage cost of the service.
- (R) Interventions involving planned physical restraint or coercion (e.g., "compression holding" or "rebirthing therapy"), or promotion of regression for "reattachment" are not to be provided utilizing PASSS dollars. In addition, the following therapeutic techniques are not permitted on a treatment plan to be paid from PASSS funds under any circumstances:

 - (1) Face down restraint with back pressure.
 - (2) Any technique that obstructs the airway or impairs breathing.
 - (3) Any technique that obstructs vision.
 - (4) Any technique that restricts the recipient's ability to communicate.
 - (5) Pepper spray, mace, handcuffs or electronic restraint devices such as stun guns.
 - (6) A drug or medication that is used as a restraint to control behavior or restrict the individual's freedom of movement that is not a standard treatment for the individual's medical or psychiatric condition.

(S) The following services are not subject to approval for PASSS for funding:

- (1) Educational services such as tuition and tutoring.
 - (2) Cosmetic dental and/or orthodontia services.
 - (3) Medical and/or mental health co-payments, prescriptions and/or prescription co-payments.
 - (4) Any recreational services including but not limited to karate, gymnastics, dance classes and fitness club memberships.
 - (5) Travel related expenses such as mileage reimbursement, airfare, lodging etc., and automobile purchases and repairs. PASSS funding may be used for specific types of vehicle modifications, e.g. lift added to van, car or transportation services that are related to the child's special needs.
 - (6) Computer equipment and software that has not been recommended by a qualified professional that will help or improve the mental and physical condition of the child.
 - (7) Child care services.
 - (8) Property fences.
 - (9) Food, meal supplements and nutrition drinks.
 - (10) Service animals.
 - (11) Services provided by a PCSA or private child placing agency (PCPA) to make arrangements for adoptive placements.
 - (12) Services that are equivalent to or are of greater benefit to other members of the family, not including family counseling and respite.
 - (13) Services to a child for whom a parent-child relationship does not exist.
 - (14) Services that facilitate contact with a parent whose rights have been terminated.
 - (15) Services for a child in the custody of a PCSA, PCPA, court or any other agency.
 - (16) Legal fees to finalize the adoption or for any other legal action.
- (T) ODJFS may approve PASSS funding for the child's insurance deductible, if the service is covered by private insurance, in lieu of approving PASSS funds for the cost of

services for the child. Applications will be reviewed on case by case basis, if it is determined that it would be more cost effective to pay the insurance deductible rather than to pay the cost of the services.

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05/15/2014, 12/01/2015, 05/01/2017, 08/01/2019

5101:2-44-13 **Administration of the post adoption special services subsidy (PASSS) program.**

(A) The Ohio department of job and family services (ODJFS) is responsible for the administration and determination of eligibility for the post adoption special services subsidy (PASSS) program. The department may contract with another person to carry out any of the duties described in this rule.

(B) An adoptive family seeking a post adoption special service subsidy is to:

(1) Submit a JFS 01050 "Application for Post Adoption Special Services Subsidy" online at <https://ohiokan.jfs.ohio.gov/> or

(2) Make contact with the Ohio kinship and adoption navigator (OhioKAN) program by phone, email or in person.

(C) OhioKAN staff will make contact with the family to assist in obtaining other needed documentation for the completed application. The completed application will consist of the following documentation:

(1) The JFS 01050 "Application for Post Adoption Special Services Subsidy."

(2) The JFS 01051 "Application for Additional Post Adoption Special Services Subsidy (PASSS) Funding for Extraordinary Circumstances," if applicable.

(3) The JFS 01052 "Credentials of Professional Providers of PASSS Funded Therapeutic Services and Memorandum of Understanding," if applicable.

(4) The JFS 01681 "Applicant Financial Statement."

(5) Any other documentation requested to aid in the approval process.

(D) OhioKAN staff are to work with the adoptive family to provide assistance to the adoptive parent(s) in exploring other sources of support and services for the child prior to forwarding the application and accompanying documentation to ODJFS.

(E) OhioKAN staff are to inquire if the child who is receiving medicaid is enrolled in the OhioRISE program. If the child is not enrolled in the OhioRISE program the child will be referred to the program.

(F) OhioKAN staff are to forward the completed application and all required documentation as outlined in rule 5101:2-44-13.1 of the Administrative Code to the ODJFS within fifteen calendar days.

(G) ODJFS is to review all documentation described in paragraph (C) of this rule and recommend the services and level of funding to be provided by the PASSS program to the adoptive family.

(H) PASSS funds are to be used for the following:

- (1) Services that aid in maintaining the child in the home of the adoptive parent.
- (2) Services that will reduce serious psychological risk for the child or serious physical risk for the child or others. Serious psychological or physical risk is defined as a progressive psychological or physical illness, injury, or impairment that will continue over an extended period of time and requires direct supervision by a qualified professional as outlined in rule 5101:2-44-13.1 of the Administrative Code. If such services are for a child not residing in the home, the requested services are to focus on specific reunification goals that enable the child to return home.
- (3) Medical services designed to relieve or correct preadoptive health care problems.

(I) Approval of the PASSS application will be based on the following:

- (1) The review of supporting documentation as specified in rule 5101:2-44-13.1 of the Administrative Code.
- (2) Whether the application requirements of rule 5101:2-44-13.1 of the Administrative Code are met.
- (3) A determination that the individual services requested by the family are appropriate.

(J) The family is to receive written notice of approval or denial on the "Approval or Denial for Post Adoption Special Services Subsidy" report generated from the Ohio statewide automated child welfare information system (SACWIS) to the adoptive family within five days of the decision to approve or deny the application, but no later than forty-five days of submission of the completed application.

(K) In the event an individual receives a denial notice the individual has the right to appeal the decision by requesting a state hearing pursuant to section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

- (1) The individual has fifteen calendar days from the mailing date of the denial notice to request a state hearing.

- (2) The individual may withdraw the state hearing request at any time prior to a state hearing decision being issued.
- (L) ODJFS will approve PASSS funding for eligible applicants as long as state funds are available. In the event state funding is no longer available, the PASSS program will close to new applications until July first of the following state fiscal year (SFY). Once state funds have been exhausted, ODJFS may not be held responsible for payment of services for applications that have not been approved.
- (M) PASSS funds are not to supplant medicaid funding if the child is eligible for coverage under the medicaid program.
- (N) ODJFS may consider approving services requested under the following conditions:
- (1) The child is not eligible for medicaid.
 - (2) The service recommended by a qualified professional for the child's treatment is not a covered service under medicaid.
 - (3) The service requested by the family is not covered under the family's insurance.
 - (4) The provider of the recommended service does not accept medicaid or is not covered by the family's insurance.
- (O) The amount funded is not to exceed the amount paid for the same service provided by a medicaid provider if the applicable service requested is covered under medicaid pursuant to: appendix DD to rule 5160-1-60 of the Administrative Code or appendix A to rule 5160-27-03 of Administrative Code for mental health services.
- (P) If the service is not covered under medicaid, the amount funded is to be a reasonable amount and is to meet the guidelines of the qualified professional's licensing body standards. The licensing body is the entity that has provided the license for the individual to practice in their profession.
- (Q) Invoices are to be submitted as services are rendered. All invoices submitted for payment that comply with Chapter 5101:2-44 of the Administrative Code will be paid by ODJFS if submitted no later than September thirtieth, after the close of the state fiscal year in which the applications were approved.
- (R) Each approved PASSS application is to be reviewed by ODJFS within twenty days after the state fiscal quarter in which it was approved, and every subsequent quarter within the SFY, to determine if the funding is being utilized.

(S) ODJFS is to notify families who have not utilized approved funds, within five days of completion of the review, of its intent to release these funds for that quarter unless the family provides adequate justification within twenty days of receipt of the notice as to why the funds were not used.

(T) If ODJFS does not accept the justification offered by the family, ODJFS is to release the funds in question and the family is responsible for the payment of services.

(U) If ODJFS releases the funds, it is to provide the family information regarding the right to a state hearing pursuant to section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

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