



April 24, 2024

Family, Children and Adult Services Transmittal Letter No. 544

TO: Family, Children and Adult Services Manual Holders

FROM: Kara B. Wentz, DCY Director
Matt Damschroder, ODJFS Director

SUBJECT: Five Year Rule Review and Amendment of Title IV-E Adoption Assistance Rule 5101:2-49-02 and Recission of Rule 5101:2-49-02.1.

This letter transmits amendments to Ohio Administrative Code (OAC) rule 5101:2-49-02 and to rescind OAC rule 5101:2-49-02.1 that governs the Title IV-E Adoption Assistance for children under age two as a result of the passage of P.L. 115-123. The non-applicable child requirements in rule 5101:2-49-02.1 will end for children under age two after June 30, 2024. The following is a brief explanation of the changes to the rules.

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All rules have been amended to remove regulatory restrictive words as described in SB 9 of the 134th General Assembly.

All rules were amended to change the reference of all systems to Ohio's Comprehensive Child Welfare Information System (Ohio's CCWIS). Ohio's CCWIS is defined as a federally recognized case management information system that state and tribal title IV-E agencies may develop to support their child welfare program needs. Ohio's CCWIS is designed to support social workers' needs to organize and record quality case information about the children and families receiving child welfare services. Ohio's CCWIS consists of several automated functions which are approved by the Children's Bureau and include but are not limited to: Ohio Statewide Automated Child Welfare Information System (SACWIS), Ohio Residential Treatment Information System (RTIS), Child and Adult Protective Services (CAPS) Learning Management System (LMS), Taking Early Action Matters (TEAM) Ohio, and Ohio Certification for Agencies and Families (OCAF).

Ohio Administrative Code (OAC) rule 5101:2-49-02 entitled "**Title IV-E adoption assistance (AA) eligibility criteria for children over age two**" sets forth the eligibility criteria for the adoption assistance program for children aged two and older. The title to the rule has been updated to provide clarity for eligibility criteria. The non applicable child requirement for children under age two was stricken in paragraph (A)(1). The judicial determination of best interest requirement in paragraph (B)(1)(a) must be met in the initial court order and not at any time prior to finalization. Regulatory restrictive language was removed throughout the rule as described in SB 9 of the 134th

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General Assembly, grammatical edits were made, and the revision dates were struck. This rule will be effective July 1, 2024.

Ohio Administrative Code (OAC) rule 5101:2-49-02.1 entitled "**Title IV-E adoption assistance (AA) eligibility criteria for children under age two.**" The non applicable child requirements for children under age two will end June 30, 2024. This rule is being rescinded effective July 1, 2024.

Instructions

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

| LOCATION | REMOVE AND FILE AS OBSOLETE | INSERT/REPLACEMENT |
|-------------------------------|------------------------------------|---------------------------|
| MANAGEMENT AND ADMINISTRATION | OAC 5101:2-49-02 | OAC 5101:2-49-02 |
| | OAC 5101:2-49-02.1 | |
| TRANSMITTAL LETTERS | | FCASMTL No. 544 |

5101:2-49-02

Title IV-E adoption assistance (AA) eligibility criteria for children age two and older.

(A) ~~A~~ The public children services agency (PCSA) ~~shall~~ is to determine ~~that~~ a child is eligible for AA if, prior to the finalization of the adoption, the PCSA finds all of the following:

~~(1)~~ Pursuant to Pub. L. No. 115-123, (2/9/2018) the child will be two years of age or older in the current federal fiscal year (FFY) of October first to September thirtieth at the time the AA agreement becomes effective.

~~(2)~~(1) The adoptive parent(s) has an approved homestudy in accordance with rules in Chapter 5101:2-48 of the Administrative Code. If the adoptive parent(s) resides in another state, then the adoptive homestudy ~~shall~~ is to be valid in the adoptive state of residence.

~~(3)~~(2) The child has been matched with an adoptive parent(s) in accordance with rule 5101:2-48-16 of the Administrative Code. If the child is placed for adoption in Ohio from another state, the Ohio agency ~~shall~~ is to use the other state's documentation to meet the matching requirements except as specified in paragraph (C) of this rule.

~~(4)~~(3) The child meets the requirements of a child with special needs as described in rule 5101:2-49-03 of the Administrative Code.

~~(5)~~(4) The child meets the age requirement as described in rule 5101:2-49-04 of the Administrative Code.

~~(6)~~(5) The child ~~shall~~ is to be a citizen or legal resident of the United States; and will be adopted in the United States.

~~(7)~~(6) The agency placing the child made a reasonable but unsuccessful effort to place the child with an appropriate adoptive parent(s) without adoption assistance, as supported by facts specified in the child's case record as described in paragraph (A)(3) of rule 5101:2-49-03 of the Administrative Code.

(B) The child, ~~age two or older~~ is to also meet one of the four adoption assistance eligibility requirements:

(1) The child, at the time of the initiation of adoption proceedings, was in the care of a PCSA, PCPA or tribe pursuant to:

(a) A judicial determination to the effect that it was contrary to the child's welfare to remain in the home ~~at any time prior to the finalization of adoption~~; or

- (b) A JFS 01645 "Agreement for Temporary Custody of Child" (~~rev. 4/2006~~) or JFS 01666 "Permanent Surrender of Child" (~~rev. 10/2013~~). For any child that enters care through a JFS 01645 or JFS 01666 there does not have to be a foster care maintenance (FCM) payment made under the voluntary agreement.
- (2) The child meets all medical and disability requirements for supplemental security income (SSI). For the purposes of determining whether an applicable child is eligible for AA through the SSI criteria, the Title IV-E agency may make the determination that the child meets the medical or disability requirements for SSI benefits.
- (3) The child is a child of a minor parent. The child was residing with the minor parent and the minor parent was removed from a specified relative with one of the following:
- (a) A judicial determination that it was contrary to the welfare for the minor parent to remain with the specified relative; or
- (b) A JFS 01645 or JFS 01666. No FCM payment is ~~required~~ needed to cover both the minor parent and the child of the minor parent.
- (4) The child was in receipt of AA in a prior finalized adoption, currently meets the definition of special needs as set forth in rule 5101:2-49-03 of the Administrative Code, and finalizes the new AA agreement by the end of the month of the child's eighteenth birthday pursuant to rule 5101:2-49-04 of the Administrative Code.
- (C) A child in an independent adoption is eligible for AA, only if the child meets the requirements of a child with special needs as described in rule 5101:2-49-03 of the Administrative Code, and the child is eligible for SSI, or is a child in a subsequent adoption if the child received AA in a prior finalized adoption.
- (D) For all children that are deemed eligible for AA, the Title IV-E agency is responsible for ensuring that background checks be conducted prior to adoption finalization and/or the issuance of a monthly AA payment. The background checks ~~shall~~ are to reveal that the prospective adoptive parent(s) has not been convicted of any of the prohibited offenses in accordance with rules 5101:2-48-10 and 5101:2-48-11 of the Administrative Code.
- (E) The PCSA ~~shall~~ is to use the Ohio statewide automated child welfare information system (SACWIS) to determine adoption assistance eligibility.

(F) A child from an international adoption, that is not currently in the custody of a PCSA or PCPA or tribe, is not eligible for AA.

Effective: 7/1/2024
Five Year Review (FYR) Dates: 2/6/2024 and 07/01/2029

CERTIFIED ELECTRONICALLY

Certification

04/19/2024

Date

Promulgated Under: 119.03
Statutory Authority: 5101.141, 5101.11
Rule Amplifies: 5101.11, 5101.141
Prior Effective Dates: 01/01/1983, 04/01/1986 (Emer.), 07/01/1986,
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11/01/2000, 03/03/2002, 01/01/2007, 04/01/2010,
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