

## TO BE RESCINDED

**5101:2-49-02.1 Title IV-E adoption assistance (AA) eligibility criteria for children under age two.**

(A) A child is eligible for Title IV-E adoption assistance (AA) if, prior to the finalization of the adoption the public children services agency (PCSA) finds all of the following:

- (1) Beginning January 1, 2018 pursuant to Pub. L. No. 115-123 (2/9/2018), the child who is under the age of two during the current federal fiscal year (FFY), October first to September thirtieth, shall meet the non-applicable child requirements in paragraph (B) of this rule. The non-applicable child requirements in this rule will end for children under age two after June 30, 2024.
- (2) The adoptive parent(s) has an approved homestudy in accordance with Chapter 5101:2-48 of the Administrative Code. If the adoptive parent(s) resides in another state, then the adoptive homestudy shall be valid in the state of residence.
- (3) 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 use the other state's documentation to meet the matching requirements except as specified in paragraph (C) of this rule.
- (4) The child meets the requirements of a child with special needs as defined in rule 5101:2-49-03 of the Administrative Code.
- (5) The child shall be a citizen or legal resident of the United States and will be adopted in the United States.
- (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 rule 5101:2-49-03 of the Administrative Code.

(B) A child in the care of a PCSA, or tribe at the time of the adoption proceedings shall meet one of the five non-applicable child AA requirements:

- (1) The child is eligible for Title XVI supplemental security income (SSI) benefits prior to the finalization of the adoption. SSI eligibility shall be determined only by a designated social security administration claims representative.
- (2) The child met the aid to families with dependent children (AFDC) relatedness requirements authorized under Title IV-A of the Social Security Act as of

July 16, 1996 pursuant to rule 5101:2-47-14 of the Administrative Code which includes the requirements for age, deprivation, living with and removed from a specified relative, income and resources standards and, if at the time of removal from the specified relative one of the following requirements is met:

- (a) If the removal was the result of a judicial determination placing the child in the custody of the PCSA, the first judicial determination removing the child from the specified relative shall include a judicial determination finding that it is contrary to the child's welfare for the child to remain with the specified relative the child was removed from. This determination must be explicit and made on a case by case basis. If the contrary to the welfare judicial determination is not included as required, a transcript of the court proceedings is the only other documentation that will be acceptable to verify that contrary to the welfare requirement has been made.
  - (b) If the removal was the result of a JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) and the child was in receipt of an FCM payment.
  - (c) If the removal was the result of a JFS 01666 "Permanent Surrender of Child" (rev. 10/2013) to a PCSA, and all the following conditions are met:
    - (i) There is a petition to the court to remove the child from the specified relative within six months from the date the child lived with the specified relative.
    - (ii) There is a subsequent judicial determination that it is contrary to the welfare of the child to remain with the specified relative.
  - (3) The child's minor parent was in foster care and received a FCM payment covering both the minor parent and the child of the minor parent while in agency care.
  - (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.
  - (5) The child is a sibling placed in the same adoptive home as his or her sibling who meets the applicable child eligibility criteria in rule 5101:2-49-02 of the Administrative Code.
- (C) A child in the care of a private child placing agency (PCPA) at the time of the adoption proceedings shall meet one of the following non-applicable child requirements:

- (1) The child is eligible for Title XVI supplemental security income (SSI) benefits prior to the finalization of the adoption. SSI eligibility shall be determined only by a designated social security administration claims representative; or
  - (2) The child entered care through the execution of a JFS 01666 to a PCPA:
    - (a) There is a petition to the court to remove the child from the specified relative within six months from the date the child lived with the specified relative from whom she/he is being removed; and
    - (b) There is a subsequent judicial determination to the effect that remaining in the home would be contrary to the welfare; or
  - (3) 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.
- (D) AA eligibility for a child that meets the requirements of a child with special needs as defined in rule 5101:2-49-03 of the Administrative Code who is the subject of an independent adoption is eligible only when the child is eligible for SSI or a child in a subsequent adoption if the child received AA in a previous adoption. An independent adoption is one in which the child is not under the responsibility of a public or private adoption agency. The matching requirements as described in paragraph (A)(3) of this rule are not required in these circumstances. The Title IV-E agency shall accept the independent adoption homestudy as meeting the requirements described in paragraph (A)(2) of this rule.
- (E) 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 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.
- (F) The PCSA shall use the statewide automated child welfare information system (SACWIS) to determine AA eligibility.
- (G) 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

CERTIFIED ELECTRONICALLY

---

Certification

04/19/2024

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5101.11, 5101.141  
Rule Amplifies: 5101.11, 5101.141  
Prior Effective Dates: 11/17/2018, 04/17/2019