

## TO BE RESCINDED

**5101:2-49-05 Determination of the adoption assistance monthly payment amount.**

- (A) The monthly amount of the Title IV-E adoption assistance (AA) payment is determined by negotiation and mutual agreement between the adoptive parent(s) and the public children services agency (PCSA).
- (B) No income eligibility test shall be used when determining the monthly AA payment. The monthly AA payment amount should combine with the adoptive parent(s) resources and circumstances of the adoptive family and shall provide for the special and anticipated needs of the child projected over an extended period of time. The child's supplemental security income (SSI) benefits shall be considered along with the adoptive parent(s) resources in the negotiation and determination of the AA payment amount. The special needs of the child shall be based upon rule 5101:2-49-03 of the Administrative Code.
- (C) The maximum amount of the monthly AA payment shall not exceed the current cost of the monthly foster care maintenance (FCM) payment that was paid or would have been paid by the PCSA if the child had been placed in a foster home.
- (D) The monthly AA payment identified in paragraph (C) of this rule shall not exceed the monthly statewide maximum AA payment amount established by the Ohio department of job and family services (ODJFS) through the "Family, Children and Adult Services Manual Procedure Letter."
- (E) Upon the effective date of this rule, a PCSA may request from ODJFS a waiver to exceed the monthly statewide maximum AA payment amount when the PCSA determines it is in the best interest of the child.
- (1) The PCSA shall submit a completed JFS 01471 "Waiver request to exceed the Title IV-E Adoption Assistance Statewide Maximum" (1/2014) to the office of families and children. The amount the PCSA agrees to pay in excess of the statewide maximum AA payment shall not exceed the monthly FCM payment amount in accordance with paragraph (C) of this rule.
  - (2) Notification of approval or denial of the waiver request will be made within ten business days of receipt of the JFS 01471. The approval or denial of a waiver is a final determination and does not grant the PCSA state hearing rights under section 5101.35 of the Revised Code or Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.

- (3) Upon approval of the waiver, the AA payment amount in excess of the statewide maximum shall be effective the month following the waiver approval date.
- (F) Any monthly AA payment amount in excess of the statewide maximum, prior to the effective date of this rule, shall remain in effect and shall continue to receive federal financial participation (FFP) up to the current FCM payment for a child in the same level of care.
- (G) If the child receives SSI benefits, the child may receive AA and SSI concurrently. If there is concurrent receipt of payments from both programs, the social security administration will decrease the monthly SSI benefit by the monthly AA payment amount.
- (H) If the PCSA and the adoptive parent(s) cannot mutually agree on the monthly AA payment amount after thirty calendar days from the initial negotiation meeting, the adoptive parent(s) may request a state mediation conference using the JFS 01470 "Adoption Assistance State Mediation Conference Request" (rev. 1/2014) to develop a mutually acceptable level of monthly AA payment amount after thirty calendar days from the initial negotiation meeting. The JFS 01470 shall be sent to the ODJFS state hearings department.
- (1) The state mediation conference shall be held within thirty business days from the receipt of the request.
  - (2) The state mediator, PCSA representative(s) and adoptive parent(s) shall be the sole participants in the state mediation conference.
  - (3) If the state mediation conference is successful and results in a mutually acceptable monthly AA payment amount, it is considered a final decision between both parties.
  - (4) The monthly AA payment amount agreed upon at the state mediation conference can only be amended if a new documented special needs of the child is identified or resources and circumstances of the adoptive family change from what was subject to the state mediation conference.
  - (5) If the PCSA and the adoptive parent(s) cannot mutually agree on a monthly AA payment amount at the state mediation conference, the adoptive parent(s) may request a state hearing.
- (I) The PCSA shall document the following in the statewide automated child welfare information system (SACWIS):
- (1) Initial agreed upon monthly AA payment amount.

(2) If applicable, the outcome of the state mediation conference, state hearing and administrative appeal.

(J) The PCSA shall not consider the race, color, or national origin of an adoptive parent(s) or of the child for whom a family has indicated an interest in adopting, when negotiating the AA agreement.

Effective:

Five Year Review (FYR) Dates: 4/17/2019

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Certification

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Date

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