

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-49-05

**Rule Type:** New

**Rule Title/Tagline:** Initial determination of the Title IV-E adoption assistance (AA) monthly payment amount.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5101.141, 5103.03, 5153.16
5. **What statute(s) does the rule implement or amplify?** 5101.11, 5101.141, 5103.03, 5153.16
6. **What are the reasons for proposing the rule?**

This rule is replacing rescinded rule 5101:2-49-05, which is proposed to be rescinded because of the five-year review.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC rule 5101:2-49-05 entitled "Initial Determination of the Title IV-E Adoption Assistance (AA) Monthly Payment Amount" outlines how to determine the monthly payment amount for adoption assistance (AA). Ohio Department of Job and Family Services (ODJFS) has set a statewide maximum for the AA program based on foster care expenditure data. If an agency chooses to exceed the statewide maximum the agency must submit a waiver request through the statewide automated child welfare information system (SACWIS). Notification of approval or denial of the waiver request will be made within ten business days. This rule also explains the option and procedure for the adoptive parent(s) to request a state mediation conference if the agency and adoptive parent(s) cannot mutually agree on an AA monthly payment amount within thirty calendar days of negotiation by submitting the JFS 01470 "Title IV-E Adoption Assistance State Mediation Conference Request" (rev. 7/2019) to state hearings. Clarification was added to the rule for the Public Children Services Agencies (PCSA) when negotiating an AA agreement. Language was added to paragraph (C) to clarify that the PCSA shall take into consideration the "viability" of other relevant resources from local, state, and federal program services that pertain to the special need of the child that are available when determining the AA payment. Clarifying language added to paragraph (D) to include the provisional requirements of the adoptive parent(s) homestudy that provide for the special and foreseeable future needs of the child. Rule 5101:2-49-12 "Amendment of the Title IV-E adoption assistance (AA) agreement" reference added to the rule when changes occur to the child's special needs and family circumstances. Clarifying language added to paragraphs (F) when submitting the monthly adoption assistance statewide maximum (MAASM) waiver request to ODJFS in the statewide automated child welfare information system (SACWIS). Language in paragraph (H) was added to the rule for clarification when an AA subsidy exceeds the FCM amount that would have been paid if the child were in foster care. Language was added to paragraph (I) includes an effective date of July 1, 2014 for all prior AA agreements that were entered into in excess of the MAASM amount shall remain in effect and continue to receive federal financial participation (FFP) up to the current FCM payment at the same level of care pursuant to the Family, Children and Adult Services Procedure Letter (FCASPL) 262. New language was included in paragraph (K) that gives mediation rights to the PCSA and that either party can request a state mediation conference if the agency and adoptive parent(s) cannot mutually agree on an AA monthly payment amount within thirty calendar days of initial negotiation. State hearing rule references were added to paragraph (K)(3) when the PCSA and adoptive parent(s) cannot agree on an AA monthly payment. Paragraph (L) was added to the rule to explain when the adoptive parent(s) and the PCSA do not agree to a mediation conference after sixty days from the date of initial negotiation, that notification of state hearing rights will be sent to the adoptive parent(s). The JFS 01470 "Title IV-E Adoption Assistance State Mediation Conference Request" has been amended to incorporate

the changes made to rule 5101:2-49-05 of the Administrative Code. The title to the rule has been amended. This rule was rescinded and created as new for clarification.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to the Ohio Revised Code (ORC). This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E).

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

7/2/2019 - The rule was pulled from the June 13, 2019 Joint Commission on Agency Rule Review (JCARR) Hearing on Title IV-E Adoption Assistance Program OAC rule 5101:2-49-05 entitled "Initial determination of the Title IV-E adoption assistance (AA) monthly payment amount" and placed in a "to be refiled, (TBR)" status because of an erroneous acronym identified in paragraph (F) of this rule. The proposed rule amendment will read as follows:

"If the child's AA amount is more than the monthly adoption assistance statewide maximum (MAASM), the PCSA may request from the Ohio department of job and family services (ODJFS) a waiver to exceed the MAASM AA payment amount when the PCSA determines it is in the best interest of the child. The AA payment shall not exceed the FCM amount that was paid or would have been paid if the child was placed in a foster home. The PCSA shall complete a waiver request in the statewide automated child welfare information system (SACWIS)."

05/08/2019 This rule is being revise filed to change language in paragraphs (E), (F) and (H) from "family foster home" to read "foster home."

## **II. Fiscal Analysis**

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

No expected fiscal effects on current or future budgets.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No new costs

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

## **III. Common Sense Initiative (CSI) Questions**

- 15. Was this rule filed with the Common Sense Initiative Office? No**

- 16. Does this rule have an adverse impact on business? No**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**



Ohio Department of Job and Family Services

**TITLE IV-E ADOPTION ASSISTANCE STATE MEDIATION CONFERENCE  
REQUEST**

Name of Adoptive Parent(s) ( <i>Last, First, Middle</i> )		County Agency Responsible for AA agreement	
Street Address		Child's Name	
City, State and Zip Code		Date of Adoptive Placement	
Initial Negotiations Started			
<p>This request for an Adoption Assistance State Mediation Conference is in relation to the action (or lack of action) by the _____ . I would like to request an Adoption Assistance state mediation conference because:</p>			
Adoptive Parent Signature		Telephone Number	Email Address
Agency Representative Signature		Telephone Number	Date

*The Adoption Assistance State Mediation Conference can only be requested if the adoptive parent(s) and the agency responsible for the Adoption Assistance Agreement cannot mutually agree on an Adoption Assistance monthly amount for the child listed above, after negotiating for at least 30 calendar days from the start of negotiation, the adoptive parent(s) or the PCSA may request a State Mediation Conference pursuant to Ohio Administrative Code 5101:2-49-05.*

**Distribution:** Original to the Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825, one copy to local agency.