

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-49-21

**Rule Type:** Amendment

**Rule Title/Tagline:** Reimbursement of Title IV-E nonrecurring adoption expenses for a child with special needs.

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

**Division:** Division of Social Services

**Address:** 30 E Broad Street Columbus OH 43215

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 7/17/2024
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, 5101.11
5. **What statute(s) does the rule implement or amplify?** 5101.11, 5101.141
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule is proposed for amendment as a result of the five-year review.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC rule 5101:2-49-21 entitled "Reimbursement of Title IV-E Nonrecurring Adoption Expenses for a child with Special Needs" outlines the requirements for eligibility for nonrecurring adoption expenses and the reimbursement of the nonrecurring adoption expenses. New Language was added to paragraph (C) to include the Nonrecurring Adoption Expenses reimbursement increase from one thousand to two thousand dollars. Minor grammatical and spelling errors were corrected throughout the rule.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

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 121.75(A)(1)(d).

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).

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

*Not Applicable*

## **II. Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

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

No new costs

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable

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

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
  - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

A Public Child Placing Agency (PCPA) must have a license in order to place children for adoption.
  - 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? Yes

A PCPA must have a license to operate as a child placing agency in Ohio.
  - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

This rule requires adoptive parents to submit a request for payment or reimbursement and proof of the expenditures for nonrecurring expenses incurred in the adoption of a child with special needs within two years of the adoption finalization or disruption prior to adoption finalization.
  - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### **IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 9**

5101:2-49-21(N)(2) Pursuant to RC 121.95(F) If a JFS 01453 is not in effect or a PCSA does not have custody of the child, the children services agency (CSA) in the state where the adoptive parent(s) lives is responsible for determining eligibility. The CSA is responsible for informing shall inform the adoptive parent(s) of the required

5101:2-49-21(N)(3) Pursuant to RC 121.95(F) If a PCPA has custody of the child, that agency is responsible for providing all required

5101:2-49-21(N)(4) Pursuant to RC 121.95(F) If a PCSA or PCPA does not have custody of the child, the adoptive parent(s) is responsible for providing all required

5101:2-49-21(N)(4) Pursuant to RC 121.95(F) If a PCSA or PCPA does not have custody of the child, the adoptive parent(s) is responsible for providing all required information and documentation to the PCSA responsible for determining eligibility. The PCSA is to shall inform the adoptive parent(s) of the required

5101:2-49-21(O)(3) Pursuant to RC 121.95(F) If a private child placing agency has custody of the child, that agency is responsible for providing all required

5101:2-49-21(O)(4) Pursuant to RC 121.95(F) If a private child placing agency does not have custody of the child, the adoptive parent(s) is responsible for providing all required

5101:2-49-21(O)(4) Pursuant to RC 121.95(F) If a private child placing agency does not have custody of the child, the adoptive parent(s) is responsible for providing all required information and documentation to the Ohio PCSA in the county of residence to determine eligibility. The PCSA is to shall inform the adoptive parent(s)parents(s) of the required

5101:2-49-21(S) Pursuant to RC 121.95 International adoption payment prohibition.

5101:2-49-21(S)(2) Pursuant to RC 121.95(F) Paragraph (S)(1) of this rule is shall not to be construed as prohibiting

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

Ohio Department of Children and Youth (DCY)

## APPLICATION FOR REIMBURSEMENT OF TITLE IV-E NONRECURRING ADOPTION EXPENSES

Date of Application (mm/dd/yyyy)		Case or ID Number (Completed by Agency)	
<b>SECTION I: AGENCY INFORMATION</b>			
Name of Public Children Services Agency			
Address (City, State and Zip Code)			Telephone Number
<b>SECTION II: ADOPTIVE PARENT(S)</b>			
Name of Adoptive Parent (First and Last)		Name of Adoptive Parent (First and Last)	
Address	City, State and Zip Code	Telephone Number	
<b>SECTION III: ADOPTIVE CHILD</b>			
Name of Adoptive Child (First and Last)			<input type="checkbox"/> Female <input type="checkbox"/> Male
Date of Birth (mm/dd/yyyy)		Expected Date of Finalization (mm/dd/yyyy)	
<b>SECTION IV: SPECIAL NEEDS CERTIFICATION</b>			
<p>A. Is there a determination that the child cannot and should not be returned to the home of the specified relative?  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Documentation Attached?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <b>If yes, what documentation is being attached?</b></p>			
<p>B. Is there documentation that the child has a specific factor or condition, or a combination of factors or conditions that makes it difficult to place the child with an adoptive parent(s) without the provision of adoption assistance or medical assistance?  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Documentation Attached?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <b>If yes, what documentation is being attached?</b></p>			
<p>C. The PCSA has determined except where it would be against the best interest of the child, a reasonable but unsuccessful effort to place the child with appropriate adoptive parent(s) without providing adoption assistance has been made?  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Documentation Attached?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <b>If yes, what documentation is being attached?</b></p>			
<p>D. Is there documentation that the child has been determined to be at substantial risk, with no manifestation of a special needs factor?  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Documentation Attached?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <b>If yes, what documentation is being attached?</b></p>			
<b>SECTION V: SIGNATURES</b>			
Signature of Adoptive Parent		Email	Date
Signature of Adoptive Parent		Email	Date

**SECTION VI: DISPOSITION (FOR AGENCY USE ONLY)**

This application relates only to the applicant's eligibility for the Reimbursement of Title IV-E Nonrecurring Adoption Expense Program. Specific items to be paid or reimbursed is to be addressed on the JFS 01438, "Agreement for Payment or Reimbursement for Title IV-E Nonrecurring Expenses Incurred in the Adoption of a child with Special Needs." This application for reimbursement of Title IV-E nonrecurring adoption expenses has been:

Approved                       Denied

Reason for Denial:

Signature of Authorized Agency Representative

Date (mm/dd/yyyy)

**SECTION VII: RIGHT TO A STATE HEARING**

You have a right to a state hearing if your application is denied or if you disagree with any other actions taken on your application. For a complete explanation of your hearing rights and the hearing process, please read JFS 04059 "Explanation of State Hearing Procedures." A copy of the JFS 04059 should be given to applicant along with this application.

Ohio Department of Children and Youth (DCY)

## AGREEMENT FOR PAYMENT OR REIMBURSEMENT FOR TITLE IV-E NONRECURRING EXPENSES INCURRED IN THE ADOPTION OF A CHILD WITH SPECIAL NEEDS

### SECTION I: GENERAL PROVISIONS

1. The following agreement has been entered into by and between \_\_\_\_\_ hereinafter called "Agency" and the adoptive/adopting parent(s), hereinafter called the "Adoptive Parent(s)," residing at \_\_\_\_\_
2. The adoptive name of the child \_\_\_\_\_

### SECTION II: GENERAL TERMS OF THE AGREEMENT

1. The adoptive parent(s) and the agency agree that the provisions for payment or reimbursement of nonrecurring adoption expenses apply to adoptions which have been legally finalized or disrupted prior to finalization.
2. The adoptive parent(s) and the agency agree that the provisions of this agreement will apply only to:
  - a) Nonrecurring adoption expenses incurred or paid by the adoptive parent(s).
  - b) Nonrecurring adoption expenses paid by the agency on behalf of the adoptive parent(s).
3. The adoptive parent(s) and the agency agree that payment or reimbursement will include only those nonrecurring adoption expenses incurred prior to finalization or disruption prior to finalization for which a bill or fee has been charged and for which the adoptive parent(s) are ultimately liable (*i.e., the cost of services that the Agency is not required to provide or to pay*).

### SECTION III: SPECIFIC TERMS OF THE AGREEMENT

The adoptive parent(s) and the agency agree to the following procedures for payment or reimbursement of the nonrecurring expenses of adoption with the understanding that total payments or reimbursement will not exceed \$2,000 per child for each adoption and all receipts must be received by the agency within two years of the adoption finalization or disruption. Check each arrangement below which applies to this agreement.

The agency agrees to provide reimbursement to the adoptive parent(s), and/or make payments(s) to service provider(s) on behalf of the adoptive parent(s), for the following adoption expenses.

- |   |   |
|---|---|
| <input type="checkbox"/> Adoption Home Study  | <input type="checkbox"/> Reasonable and necessary Adoption Fees |
| <input type="checkbox"/> Health Examination Related to the Adoption Study                                   | <input type="checkbox"/> Supervision of the Placement           |
| <input type="checkbox"/> Legal Expenses (Court Costs not limited to filing fees for adoption/Attorney Fees) |   |
| <input type="checkbox"/> Transportation, Lodging and Food   |   |
| <input type="checkbox"/> Psychological Examination Related to the Adoption Study                            |   |

**SECTION IV: PAYMENT OR REIMBURSEMENT IF NONRECURRING EXPENSES EXCEED \$2,000**

In the event that nonrecurring expenses for the adoption of an individual child exceeds \$2,000, the agency agrees that the adoptive parent(s) may choose the expenses to claim for payment or reimbursement from among the expenses they have not received previous payment or reimbursement.

**SECTION V: VERIFICATION BY THE ADOPTIVE PARENT(S)**

1. The adoptive parent(s) states that they have incurred expenses or expects to incur expenses which are necessary to complete the placement and adoption of a child with special needs or a substantial risk, with no manifestation of a special need as defined by rule 5101:2-49-03 of the Ohio Administrative Code.
2. The adoptive parent(s) states that the nature and the amounts of the nonrecurring expenses listed in Section III will be accurately reported and documented.
3. The adoptive parent(s) agrees to verify the nonrecurring adoption expenses for which they have received payment or reimbursement from the agency, or which the agency has paid to a service provider in their behalf.
4. The adoptive parent(s) agrees to submit a claim for payment or reimbursement and proof of expenditures only for those additional nonrecurring adoption expenses for which they are financially responsible within two years of the adoption finalization or an adoption disruption before finalization.
5. The adoptive parent(s) understands that if an agreement cannot be reached in the determination of the child as a child with special needs, or the nature and amount of expenses which are eligible for payment or reimbursement, they are entitled to a state hearing in accordance with the policies and procedures contained in Chapter 5101:6-2 of the Ohio Administrative Code.

**SECTION VI: VERIFICATION BY THE AGENCY**

1. The agency has determined that the adopted child is a child with special needs or a substantial risk, with no manifestation of a special need in accordance with rule 5101:2-49-03 of the Administrative Code.
2. The agency asserts that a copy of this agreement, along with accurate documentation of the nonrecurring adoption expenses itemized in Section III of this agreement, will be maintained in the case record.
3. The adoptive parent(s) and the agency agree that payment or reimbursement for nonrecurring adoption expenses will not exceed the total sum of \$2,000 for each child.

**SECTION VII: AMENDMENT OF THE AGREEMENT**

The adoptive parent(s) and the agency agree that this agreement may be amended by mutual consent at any time prior to the finalization of adoption subject to the conditions of Rule 5101:2-49-21 of the Administrative Code.

Adoptive Parent's Signature	Email	Date
Adoptive Parent's Signature	Email	Date
Authorized Agency Representative's Signature	Email	Date

A signed copy of this Agreement was given/mailed to the adoptive parent(s) on: \_\_\_\_\_  
Date (mm/dd/yyyy)