

5101:2-49-21 **Reimbursement of nonrecurring adoption expenses for a child with special needs.**

(A) The following definitions are applicable to this rule and supersede any definition contained in rule 5101:2-1-01 of the Administrative Code.

(1) "Nonrecurring adoption expenses" are reasonable and necessary adoption fees, court costs, attorney fees, and in accordance with paragraph (A)(2) of this rule, other expenses directly related to the legal adoption of a child with special needs, as defined in rule 5101:2-49-03 of the Administrative Code for whom a final decree of adoption has been issued. These expenses cannot be incurred in violation of state or federal law and cannot be reimbursed from other sources or funds.

(2) "Nonrecurring other expenses directly related to the legal adoption of a child with special needs" as specified in paragraph (A)(1) of this rule refers to the cost of the adoption incurred by or on behalf of the adoptive parent(s) and for which the adoptive parent(s) carries the ultimate liability for payment. These expenses include costs related to:

(a) The adoption homestudy.

(b) Health and psychological examinations.

(c) Supervision of the placement prior to the final decree of adoption.

(d) Reasonable cost of transportation, lodging, and food for the child and/or adoptive parent(s) when necessary to complete the placement or adoption process.

(B) A public children services agency (PCSA), private child placing agency (PCPA), or private non-custodial agency (PNA) shall notify anyone inquiring about adoption services through the agency of the availability of funds for the reimbursement of nonrecurring adoption expenses and the application process.

(C) The PCSA shall enter into an agreement with the ~~adopting~~ adoptive parent(s) of a child with special needs for the payment of non-recurring adoption expenses for which the parent(s) has not otherwise been reimbursed not to exceed one thousand dollars for each child.

(D) The PCSA, PCPA, or PNA shall inform an adoptive parent(s) who inquires about adoption services through the agency that the JFS 01421 "Application for Reimbursement of Nonrecurring Adoption Expenses" (rev. ~~3/2010~~10/2009) shall be

submitted to the appropriate PCSA and approved prior to the final decree of adoption. The JFS 01421 cannot be considered for approval retroactively.

- (E) The adoptive parent(s) and the PCSA as specified in paragraphs ~~(L)~~(M) to ~~(O)~~(P) of this rule shall sign the JFS 01438 "Agreement for Payment of Reimbursement for Nonrecurring Expenses Incurred in the Adoption of a Special Needs Child" (rev. ~~3/20108/2009~~), prior to the final decree of adoption. A final decree of adoption by a foreign country constitutes the final decree of adoption. The agreement shall indicate the amount and details of the nonrecurring expenses. The JFS 01438 cannot be entered into after the final decree of adoption.
- (F) The PCSA shall not consider the race, color, or national origin of an adoptive family or of the child for whom a family has indicated an interest in adopting, when entering into a JFS 01438.
- (G) If siblings are placed for adoption, either separately or together, each child shall be treated as an individual. A separate JFS 01421 and JFS 01438 shall be executed for each child.
- (H) The PCSA shall not apply an income eligibility requirement (means test) to the adoptive parent(s) in determining whether payment or reimbursement for nonrecurring adoption expenses shall be made.
- (I) The adoptive parent(s) shall submit to the PCSA a request for payment or reimbursement and proof of the expenditures for nonrecurring expenses incurred in the adoption of a special needs child within two years of the final decree of adoption.
- (J) In order for a PCSA to enter into an agreement for the reimbursement of non-recurring adoption expenses the child must be determined a child with special needs prior to the final decree of adoption as defined in rule 5101:2-49-03 of the Administrative Code. The child need not meet other categorical eligibility requirements of Title IV-E adoption assistance. ~~A child is considered special needs if all three of the following criteria are met prior to the final decree of adoption:~~
- ~~(1) The child cannot or should not be returned to the home of his parents. This determination shall be made based on one of the following:~~
- ~~(a) An order from a court of competent jurisdiction terminating parental rights;~~
- ~~(b) A petition for termination of parental rights;~~
- ~~(c) A signed relinquishment by the birth parent.~~

~~(2) The PCSA has determined that the child meets the special needs criteria, as defined in rule 5101:2-49-03 of the Administrative Code. The child need not meet other categorical eligibility requirements of Title IV-E adoption assistance.~~

~~(3) The PCSA has determined that in each case a reasonable but unsuccessful effort was made to place the child with an appropriate adoptive parent(s) without providing reimbursement of nonrecurring adoption assistance or the PCSA has determined that this requirement shall be waived as described in rule 5101:2-49-03 of the Administrative Code.~~

(K) If all other eligibility criteria are met, and the only special needs factor is the child has been determined to be at substantial risk, with no manifestation of a special needs factor, the child is not eligible for nonrecurring adoption assistance.

~~(K)~~(L) If the PCSA and the adoptive parent have completed a JFS 01453 "Adoption Assistance Agreement" (rev. ~~3/2010~~4/2010), ~~then~~ the application for reimbursement of nonrecurring adoption expenses shall be made to the PCSA with which the adoptive parent(s) entered into the AA agreement. The JFS 01438 shall be incorporated as an addendum to the AA agreement.

~~(L)~~(M) If a JFS 01453 has not been completed by a PCSA, all of the following shall apply:

(1) Prior to the final decree of adoption, the adoptive parent(s) shall submit a JFS 01421 for reimbursement of nonrecurring adoption expenses to the PCSA in the county in which they reside.

(2) At the time of application and prior to the final decree of adoption, the adoptive parent(s) shall provide the PCSA with:

(a) A copy of the JFS 01616 "Social and Medical History" (rev. 6/2009) completed on the child for whom the request is being made or a copy of the social and medical history completed in the child's country of origin.

(b) A copy of the JFS 01673A "Child Characteristic Checklist for Foster and/or Adoption" (rev. 12/2006) and one of the following homestudies:

(i) JFS 01673 "Assessment for Child Placement (Homestudy)" (rev. ~~08/2005~~8/2005) or its equivalent for a child adopted from another state.

(ii) JFS 01692 "Application for Adoption of a Foster Child" (rev. 6/2009).

(3) If the adoptive parent does not provide a completed JFS 01616, JFS 01673A and JFS 01673 or JFS 01692 the PCSA shall deny the JFS 01421.

~~(M)~~(N) If the child is placed for adoption from Ohio into another state, the following apply:

(1) If a PCSA has entered into a JFS 01453 or has custody of the child, that PCSA is responsible for the determination of eligibility for reimbursement of nonrecurring adoption expenses and payment of allowable nonrecurring adoption expenses if the child is eligible.

(2) 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 ~~in which~~where the adoptive parent(s) ~~live~~lives is responsible for ~~the determination~~determining of eligibility. The CSA shall inform the adoptive parent(s) of the required documentation.

(3) If a PCPA has custody of the child, that agency is responsible for providing all required information and documentation to the PCSA responsible for ~~the determination~~determining of eligibility.

(4) 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 ~~the determination~~determining of eligibility. The PCSA shall inform the adoptive parent(s) of the required documentation.

~~(N)~~(O) If the child is placed for adoption from another state into Ohio, the following apply:

(1) If the PCSA has entered into a Title IV-E AA agreement or has custody of the child, that agency is responsible for ~~the determination~~determining of eligibility for reimbursement of nonrecurring adoption expenses and ~~payment of~~paying allowable nonrecurring adoption expenses if the child is eligible.

(2) If the state public agency has not entered into a Title IV-E AA agreement or does not have custody of the child, the Ohio PCSA in the county in which the adoptive parent(s) resides is responsible for ~~the determination~~determining of eligibility for reimbursement of nonrecurring adoption expenses and ~~payment~~

~~of paying~~ allowable nonrecurring adoption expenses if the child is eligible.

(3) If a private child placing agency has custody of the child, that agency is responsible for providing all required information and documentation to the Ohio PCSA in the county ~~in which~~where the adoptive parent(s) resides ~~for the determination of eligibility~~to determine eligibility.

(4) If a public or 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 ~~for the determination of~~to determine eligibility. The PCSA shall inform the adoptive parents(s) of the required documentation.

~~(O)~~(P) A stepparent adopting a special needs child shall not be eligible to receive payment or reimbursement for nonrecurring adoption expenses if a biological parent is also present in the home. If a biological parent is not present due to death, divorce, or abandonment of the child, the stepparent shall receive payment or reimbursement for the nonrecurring adoption expenses if all other provisions of this rule are met.

~~(P)~~(Q) For each JFS 01438 executed, the PCSA shall maintain documentation in the child's case record to verify compliance with this rule.

~~(O)~~(R) The state hearing policies and procedures contained in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code apply to individuals applying for benefits under this rule.

~~(R)~~(S) International adoption payment prohibition.

(1) Notwithstanding any other paragraph of this rule, no payment may be made to parents with respect to a child who meets the requirements specified in paragraph (J) of this rule but who is not a citizen or resident of the United States and was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(2) Paragraph ~~(R)~~(S)(1) of this rule shall not be construed as prohibiting payments where the child is placed in foster care subsequent to the failure, as determined by the PCSA, of the initial adoption of the child by the parents described in paragraph ~~(R)~~(S)(1) of this rule.

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Certification

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