



# Common Sense Initiative

Mike DeWine, *Governor*  
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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services and Children and Youth

Rule Contact Name and Contact Information: Michael Lynch, 614-466-8376

Regulation/Package Title (a general description of the rules' substantive content):

Title IV-E Adoption Assistance, Administration, Case Record Requirements, and Reimbursement of Nonrecurring Expenses.

Rule Number(s): OAC 5101:2-49-01, OAC 5101:2-49-17 and OAC 5101:2-49-21.

Date of Submission for CSI Review: 6/21/2024

Public Comment Period End Date: 6/28/2024

Rule Type/Number of Rules:

New/     rules

No Change/     rules (FYR?    )

Amended/   3   rules (FYR?   YES  )

Rescinded/     rules (FYR?    )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

These rules are being filed to meet FYR and the amendments pose no adverse impact to businesses.

**The rule(s):**

- a.  **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b.  **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c.  **Requires specific expenditures or the report of information as a condition of compliance.**
- d.  **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

OAC rule 5101:2-49-01 entitled "**Administration of the Adoption Assistance (AA) Program**" outlines the AA administrative requirements for public children services agencies (PCSA) and private child placing agencies (PCPA). New language added to the rule in paragraph (B) due to revisions on the JFS 01451 "Title IV-E Adoption Assistance Application" to align with the adoption form JFS 01667 "Adoption Information Disclosure." New language added to the rule in paragraph (F)(2)(c) to include a copy of the JFS 01666 "Permanent Surrender of Child" being provided by the PCPA. Minor grammatical and spelling errors were corrected throughout the rule.

OAC rule 5101:2-49-17 entitled "**Case Record Requirements for Title IV-E Adoption Assistance (AA)**" outlines the case record requirements. Inclusion of adoption forms JFS 01667 "Adoption Information Disclosure" and JFS 01699 "Prefinalization Adoption Assessment Report" added to paragraph (B) to ensure notification of AA to adoptive parents. Minor grammatical and spelling errors were corrected throughout the rule.

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.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Statutes 5101.141 and 5101.11 grant rule writing authority and are the statutes the rule implements or amplifies.

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

Section 473 [42 U.S.C. 673] (a)(1)(A) of the Social Security Act requires the regulation of the Adoption Assistance Program.

**5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This rule does not exceed the federal requirement.

**6. What is the public purpose for this regulation (i.e., why does the agency feel that there needs to be any regulation in this area at all)?**

For rule 5101:2-49-01, Ohio Department of Children and Youth (DCY) is the state agency that is responsible for administering the Title IV-E program. In Ohio the Title IV-E program is county administered by the Public Children Service Agencies (PCSAs) and state supervised. Under the authority of Ohio Revised Code (ORC) 5101.141, Ohio Department of Children and Youth (DCY) drafts standards for the Title IV-E agencies to administer the program. It is the responsibility of the Private Child Placing Agencies (PCPAs) who hold permanent custody of a child to inform all adoptive parent(s) about the adoption assistance program and provide the PCSAs with - 4 - documents to help them determine adoption assistance eligibility for a child with special needs.

For rule 5101:2-49-17, the purpose is to ensure that all Private Child Placing Agencies (PCPAs) who hold permanent custody of a child are required to provide the Public Children Services Agency (PCSA) with verification of dates of the documents needed in the adoption assistance case record, and for auditing purposes these documents shall be provided upon request.

For rule 5101:2-49-21, the purpose is to ensure that all Private Child Placing Agencies (PCPAs) and Private Non-Custodial Agencies (PNAs) inform the adoptive parent(s) about the nonrecurring adoption assistance program and to provide the PCSA with the documentation required by OAC 5101:2-49-17 (Case Record Requirements for Title IV-E

Adoption Assistance (AA) and OAC 5101:2-49-21 so the PCSA can determine eligibility for the nonrecurring adoption reimbursement.

**7. How will the agency measure the success of this regulation in terms of outputs and/or outcomes?**

5101:2-49-01, The success is measured in great part by and through the language of this rule that ensures the Adoption Assistance (AA) program is administered correctly and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; the proper placement of children is being carried out; by improving outcomes for children in need of a permanent family; are improving the number of successful adoptions; and ensures adoption assistance, if eligible, is provided based on federal guidelines from section 473 of the Social Security Act.

5101:2-49-17, the success is measured in great part by and through the language of these rules that ensure the Adoption Assistance program, and the reimbursement of Nonrecurring Adoption expenses is administered correctly, and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; through the proper placement of children; by increasing the number of successful adoptions.

Rule 5101:2-49-21, the success is measured in great part by and through the language of these rules that ensure the Adoption Assistance program, and the reimbursement of Nonrecurring Adoption expenses is administered correctly, and funds are distributed and reimbursed to adoptive parent(s) who qualify to receive them; through the proper placement of children; by increasing the number of successful adoptions.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No. The rule contained in this rule package is not being submitted pursuant to R.C, 101.352, 101.353, 106.032, 121.93, or 121.931.

**Development of the Regulation**

**9. Please list the stakeholders included by the agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

Through a collaborative partnership with county partners, adoption advocates, adoptive parents, private attorneys, juvenile court system, Child Welfare training programs, and Public Children Services Organization (PCSAO) from across Ohio, Ohio Department of

Children and Youth (DCY) Title IV-E staff worked with multiple counties to have diverse input with the amendment of the adoption assistance program rules. In addition to amending chapter 49 rules, the workgroup, Strengthening and Standardizing Adoption Assistance (AA) Negotiation Process and the internal Adoption Subsidies workgroup was created to specifically look at Ohio's adoption negotiation process and to develop a standardized adoption negotiation process across the state. The external workgroup began on September 26, 2023. This workgroup met monthly virtually with a final external workgroup meeting that was held on May 15, 2024. The internal and external workgroup worked to finalize actionable recommendations to improve the negotiation process across the state of Ohio.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the agency?**

These rules were reviewed and revised with the interested party's involvement and language was established that was agreeable to all through two clearance processes.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not Applicable.

**12. What alternative regulations (or specific provisions within the regulation) did the agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

There are no alternative regulations because Ohio Department of Children and Youth (DCY) is required to administer the Title IV-E adoption assistance program pursuant to section 473 of the Social Security Act and 5101.141 of the Ohio Revised Code.

**13. What measures did the agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

There is no duplication as these rules are specific to the administration of the adoption assistance program and no other rules address these specific issues. These rules were reviewed by our county partners, Public Children Services Agency Organization (PCSAO), Federal contacts, legal staff, and staff at Ohio Department of Children and Youth (DCY) to ensure they do not duplicate any existing Ohio regulations.

**14. Please describe the agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

Ohio Department of Children and Youth (DCY) is following federal guidelines as outlined in section 473 of the Social Security Act. The adoption assistance program is monitored by Ohio Department of Children and Youth (DCY) through case record reviews to ensure compliance

with the rule standards. This process is measured by the number of adopted children determined eligible for the adoption assistance program that find permanent homes.

### **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

There are 58 Private Child Placing Agencies (PCPAs) in Ohio that will be impacted by this.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.)**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

These rules are being filed to meet FYR and the amendments pose no adverse impact to businesses.

For OAC 5101:2-49-01, if the PCPA's do not provide the information about the adoption assistance program to the adoptive parent(s), the parent(s) will not be informed about the adoption assistance program that can assist them in incorporating an adopted child into their family. The adverse impact includes the time and money involved in providing copies of the JFS 01616 (Social and Medical History), JFS 01673 (Assessment for Child Placement), JFS 01692 (Application for Adoption of a Foster Child or Sibling Group) and other information to the PCSA and providing adoption assistance information to each person that inquires about adoption.

For OAC 5101:2-49-17, if the PCPAs do not provide the documentation required in this rule, the PCSA can't determine eligibility for the adoption assistance program that will assist the adoptive parent(s) in caring for the adopted child. This adverse impact includes time and money involved in providing copies of various forms and documents outlined in the rule to the PCSA.

For OAC 5101:2-49-21, The existing adverse impact on unchanged parts of the rule includes time and money involved in providing nonrecurring adoption expense reimbursements information to the adoptive parent(s).

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

N/A

**17. Why did the agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

Ohio Department of Children and Youth (DCY) is driven by section 473 of the Social Security Act to administer the adoption assistance program.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There are no apparent alternative means of regulation for compliance to rules 5101:2-49-01, 5101:2-49-17 and 5101:2-49-21.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

Ohio Department of Children and Youth (DCY) does not levy any fines or penalties in rules 5101:2-49-01, 5101:2-49-17 and 5101:2-49-17, therefore DCY does not anticipate applying Chapter 119.14 waivers for covered entities under the rules.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The required forms are available on Ohio Department of Children and Youth (DCY) website under forms on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E). There is also a JFS 01985 "Adoption Subsidies Guide" (rev. 03/2024) that explains programs that are available for adopted children.