

LCCS POLICY 240
Adoption Assistance & Adoption Subsidy Programs

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| Original Issue Date: | 7/11/84 |
| Revision Dates: | 10/31/86, 10/31/88, 09/09/92, 11/25/98, 03/22/00,8/19/05, 1/11/10, 4/21/16 |
| Revision Number: | 8 |
| Current Effective Date: | 1/11/10, 4/21/16 |
| Obsolete/Combined Date: | 11/25/98 |
| Reason for Obsoleting/Combining: | Policy 806 (Post Adoptive Special Services Subsidy) combined with Policy 240. Change made to provide one source that contains subsidy information. |
| See new Policy #: | |

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| Scope: | Entitlements, Adoption Unit |
| Responsibility: | Entitlements |
| Purpose: | To make permanent homes possible for children who have been determined by Lucas County Children Services as "adoptive special needs children" through the provision of financially supportive programs offered by the federal and state governments. |
| Legal Cite: | O.A.C. 5101:2-1-01; 5101:2-44-02 through 5101:2-44-13.1; 5101:2-47-03 through 5105:2-47-10; 5101:2-47-28 through 5101:2-47-44 |

POLICY STATEMENT

Lucas County Children Services (LCCS) is responsible for administering the Title IV-E Adoption Assistance, State Adoption Maintenance Subsidy (SAMS), Non-Recurring Adoption Expenses, and Post Adoption Special Services Subsidy (PASSS) programs to meet the needs of children determined by Lucas County Children Services as "adoptive special needs children."

PROCEDURE - including required timeframes and documentation

FUNDING FOR ALL SUBSIDY PROGRAMS DESCRIBED HEREIN IS SUBJECT TO CHANGE AT ANYTIME BASED ON STATE AND FEDERAL GUIDELINES AND THE AVAILABILITY OF FUNDS.

General Procedures/Information Related to State and Federal Subsidies

The Adoption Subsidy Specialist will respond to all requests for general and specific information concerning adoption assistance and adoption subsidy on behalf of Lucas County children.

The Entitlement Unit has the sole responsibility for making a determination that a child is an “adoptive special needs child” and determining eligibility for Federal Adoption Assistance and State Adoption Subsidy. Determination of an “Adoptive Special Needs Child” will be based on the definition contained in the Ohio Administrative Code (OAC).

The term "special needs" describes circumstances that prevent or delay a child from being placed into an adoptive home.

To be considered a special needs child for adoption subsidy, the Public Children Services Agency (PCSA) must have been awarded permanent custody and the agency must have determined that the child has special needs based on, at least, one (1) of the following:

- Is part of a sibling group being adopted together or is placed in the same adoptive placement of a sibling previously adopted;
- Is a member of a minority or ethnic group, however, if child is between newborn and twelve months the child must be diagnosed with a physical or mental condition;
- Is six (6) years of age or older;
- Has remained in the permanent custody of a PCSA or Private Child Placing Agency (PCPA) for more than one (1) year;
- Has a medical condition, physical impairment, mental retardation or developmental disability;
- Has a social or medical history or the background of the child’s biological family has a social or medical history, which may place the child at risk of acquiring a medical condition, a physical, mental or developmental disability, or an emotional disorder;
- Has been in the home of his/her perspective adoptive parent(s) as a foster child for, at least six months and would experience severe separation and loss if placed in another setting due to his/her significant emotional ties to the foster parent(s) as determined and documented by a qualified mental health professional;
- Has experienced a previous adoption disruption or three or more substitute care placements while in the custody of a PCSA or PCPA.

Application for adoption subsidy may be made only after the completion of a homestudy and the approval for adoptive placement of a specific special needs child by an agency with such authority. At the adoption presentation, the Adoption Subsidy Specialist will provide the prospective adoptive family with general subsidy information and subsidy applications.

The Entitlement Program Facilitator will determine the child's and family’s eligibility for the program(s) within thirty (30) days after receiving the completed application form and all necessary supporting documentation.

Re-determinations for adoption assistance/subsidy must be conducted, at least, every twelve (12) months.

LCCS or the adoptive parent(s) can request modification of the agreement at any time.

LCCS will complete the re-determination and provide written notification, at least, fifteen (15) days prior to the anniversary date of the subsidy approval or most recent re-determination or within thirty (30) days of a request for modification.

If an initial or re-determination results in adverse findings, the Entitlement Program Facilitator will inform the adoptive parent(s), in writing, of their rights to appeal and request a state hearing.

LCCS will, whenever possible and appropriate, suspend payments prior to proposing termination of agreements to ensure adoptive parent(s) have the opportunity to appeal.

Specific federal and state regulations prohibit reinstatement of agreements for adoption assistance and agreements for subsidized adoption that have been terminated.

Subsidy Payments

Payments may begin when all of the following have been completed:

- The child is placed in an approved adoptive home;
- LCCS has determined that the child meets all of the eligibility requirements;
- The required state/federal form is completed and signed by the adoptive parent(s) and LCCS;
- If the prospective adoptive family is/are a licensed foster parent(s) and the waiting child is Title IV-E FCM eligible, the family has the option to receive the FCM benefits until finalization (applies to Federal Adoption Assistance only).

Adoption Subsidies

There are two (2) categories of adoption subsidies: Federal Adoption Assistance (AA) and State Adoption Maintenance Subsidy. The federal and state adoption maintenance subsidy programs have the same basic concept: to assist and maintain special needs adoptive placements before and after finalization (or legalization) of the adoption. Although they have the same basic concept, eligibility requirements for these programs are somewhat different.

FEDERAL PROGRAMS

Federal Adoption Assistance Subsidy (AA)

The Federal Adoption Assistance Subsidy provides financial assistance to families based on the **child's** special needs at the time of the adoptive placement. The benefits may include:

- Monthly adoption assistance payment;
- Medicaid card.

Eligibility Requirements for a Child to Qualify for AA

In order for a child to be eligible for an Adoption Assistance Subsidy, the PCSA must determine and document that the child meets the definition of special needs and:

- The child was in the permanent custody of and placed for adoption by a PCSA or PCPA and the child would have been eligible for Ohio Works First (OWF), and there must be a timely court order containing a judicial determination stating that the placement is in the best interest of the child; or
- The child meets Supplemental Security Income (SSI) eligibility requirements.

Application

The JFS 01451, "Title IV-E Adoption Assistance Application" must be submitted to the PCSA that has permanent custody of the waiting child. If the child is in the custody of a PCPA, the JFS 01451 must be submitted to the PCSA in the county in which the private agency is located.

Application for the Adoption Assistance program must be made prior to finalization of the adoption. Once an adoption has been finalized, a child will not be eligible for AA, except as noted in the section below titled "Eligibility for AA after Finalization".

Determination of the Amount of the Monthly Adoption Assistance Payment

- The amount of the monthly adoption assistance payment is determined by negotiation and mutual agreement between the adoptive parent(s) and LCCS.
- Subsidy amount decisions must be based on conditions and situations present at the time of the adoptive placement.
- If conditions or situations change after the subsidy payment determination is made, the Adoption Assistance Agreement may be amended.
- The use of an income eligibility test is prohibited when negotiating an Adoption Assistance Agreement, including the amount of the payment.
- If the child is receiving Social Security benefits from the birth parent or if the child is the recipient of Social Security benefits due to disability and/or the prospective adoptive parent(s) is receiving Social Security benefits, this sum will be factored into the negotiated amount of the Adoption Assistance payment.
- The negotiated amount of the monthly Adoption Assistance subsidy payment can not exceed what the foster care maintenance payment for the child would have been if the child had been living in a foster home.
- The amount of monthly payment agreed upon should be used in combination with the parents' resources to meet the needs of the child.

Eligibility for AA after Finalization

LCCS shall consider eligibility for AA after finalization, and negotiate an AA agreement with the adoptive parent(s) if the JFS 01451 "Title IV-E Adoption Assistance Application" was not completed, or a JFS 01453 "Adoption Assistance Agreement" was not executed prior to the final decree of adoption **only** due to one (1) of the following extenuating circumstances:

- Relevant facts regarding the child are known by the PCSA or PCPA and not presented to the adoptive parent(s) prior to the final decree of adoption; or
- The PCSA denied AA based upon the adoptive parent(s) income; or

- The agency erroneously determined that the child was ineligible for AA; or
- The PCSA or PCPA failed to advise the adoptive parent(s) of the availability of AA.

Non-Recurring Adoption Expenses

Non-recurring adoption expenses are one-time expenses directly related to the legal adoption of a child with special needs.

Expenses may include:

- Reasonable and necessary adoption fees;
- Attorney fees and court costs;
- Adoption study, including health and psychological examination;
- Supervision of the placement prior to the adoption;
- Transportation costs and reasonable costs of lodging and food for the child and/or adoptive parent(s) when necessary to complete the placement or adoption process;
- Other non-recurring expenses subject to prior approval by the Ohio Department of Job and Family Services (ODJFS) that are directly related to the adoption of a special needs child and which meet the condition of the OAC.

Cost of adoption services provided free of charge are not eligible for payment or reimbursement.

Step-parent adoption of a special needs child is not eligible for non-recurring expenses if a biological parent is also present in the home.

International Adoption Payment Prohibition:

- No payment may be made to parents with respect to a child who is not a citizen or resident of the United States and was adopted outside of the United State or was brought into the United States for the purpose of being adopted.
- This shall not be construed as prohibiting payments where the child is placed in foster care subsequent to the failure, as determined by LCCS, of the initial adoption of the child by the parents.

Eligibility for Non-Recurring Adoption Expenses Subsidy

In order to receive payment or reimbursement of non-recurring adoption expenses, a child must meet the definition of special needs. In addition, the child must meet **both** of the following criteria:

- LCCS has determined that the child should not be returned to the home of his/her parent(s);
- LCCS has determined that reasonable, but unsuccessful, efforts were made to place the child with an appropriate family without the provision of an adoption subsidy.

Note: Adoptive parent(s) do not have to meet income eligibility requirements (i.e., means test).

Application/Reimbursement

- The JFS 01421 "Application for Reimbursement of Nonrecurring Adoption Expenses" must be submitted prior to the issuance of a final decree of adoption, including the final decree of adoption issued by a foreign country.
- The application must be submitted to the PCSA responsible for the execution of the Title IV-E Adoption Assistance Agreement.
- If a Title IV-E Adoption Assistance Agreement has not been executed, the application must be submitted to the PCSA in the county in which the adoptive parent(s) resides.
- An agency may not reimburse or make payment for adoption expenses until a final decree or certificate of adoption is issued and receipts are received from the adoptive parent(s) documenting agreed upon expenses.
- Receipts must be submitted to the agency within two (2) years of the adoption finalization.

STATE PROGRAMS

State Adoption Maintenance Subsidy (SAMS)

State Adoption Maintenance Subsidy (SAMS) provides financial assistance to families based on the **child's** special needs at the time of the adoptive placement. A child who is eligible to receive the Federal Adoption Assistance Subsidy (AA) is not eligible to receive SAMS.

The benefits of the State Adoption Maintenance Subsidy program are:

1. Monthly adoption subsidy payment;
2. Medicaid Card (**if Medicaid eligibility requirement met**).

Medicaid Eligibility

A child with a SAMS agreement can be found eligible for Medicaid based on the following:

- Child's income and resources;
- Child has special needs for medical or rehabilitative care (Per OAC 5101:2-44-05.1) at the time of the adoptive placement.

Special needs for Medicaid eligibility purposes means:

- Physical, behavioral, emotional, mental or developmental handicap, disorder disturbance or problem.

Application

The JFS 01613, "Application for State Adoption Subsidy" (rev. 4/2014) must be submitted to the public children services agency that has permanent custody of the waiting child. If the child is in the custody of a private child placing agency, the JFS

01613 must be submitted to the public children services agency in the county in which the private agency is located.

Application for the State Adoption Maintenance Subsidy program must be made prior to finalization of the adoption. Once an adoption has been finalized, a child will not be eligible for SAMS.

Eligibility Requirements for State Adoption Maintenance Subsidy

- The child must be a special needs child;
- The child must have been placed for adoption by the Ohio PCSA or PCPA having permanent custody of the child;
- The child resides in Lucas County;
- The child must be less than eighteen (18) years of age or less than twenty-one (21) years of age if mentally or physically handicapped as diagnosed by a qualified professional;
- Meet all requirements of the OAC, except when the child is subsequently determined eligible for Title IV-E Adoption Assistance; and
- The adoptive applicant(s) has a gross income that does not exceed 120% of the median income of a family the same size.

SAMS will be suspended if:

- Twelve (12) months have elapsed from the initiation of the subsidy payment and no finalization of the adoption has occurred;
- A temporary change has occurred in the need for the adoption subsidy; or
- The adoptive parent(s) income exceeds 120% of the median income of a family the same size.

Note: SAMS may continue if an adoptive parent(s) moves to another county, state or country.

State Adoption Special Services Subsidy

The State Adoption Special Services Subsidy program ceased to exist July 1, 2004. For State Adoption Special Services Subsidy approvals that were in effect *before* July 1, 2004, LCCS will, at its option, continue to provide the State Adoption Special Services Subsidy. The continued eligibility will be contingent upon the adoptive child's continued need for developmental, medical or mental health services. County Special Services funding may be available on a case-by-case basis for families who have signed adoptive placement agreements after July 1, 2004.

Post Adoption Special Services Subsidy (PASSS)

The Post Adoption Special Services Subsidy is a unique subsidy designed to assist Ohio families **after** the finalization of their adoption. PASSS is intended to help pay for qualified services not covered under other adoption subsidy, insurance or Medicaid programs.

The subsidy is available to all adoptive families, regardless of the type of adoption the family pursued (i.e., international, attorney, public or private), with the exception of step-parent adoptions. The child does not have to meet either the federal or state definitions of "special needs" for the adoptive family to be eligible.

The adoptive parent(s) of a child who receives PASSS payments shall pay, at least, five percent (5%) of the total cost of all services provided to the child. When the gross annual income of the child's adoptive family is less than two hundred percent (200%) of the United States Department of Health and Human Services poverty guidelines, LCCS will waive the five percent (5%) co-pay. Further, the amount covered by PASSS payments for medical, surgical or mental health related respite care services shall not exceed the maximums cited in the Ohio Administrative Code.

Eligibility for PASSS

In order to qualify for PASSS, the following criteria must be met:

- The child must have a physical, developmental, mental, or emotional condition;
- The need must have existed before the adoption was finalized or can be attributed to a pre-adoptive condition;
- The child is less than eighteen (18) years of age or is less than twenty-one (21) years of age and mentally or physically handicapped;
- The family has explored other sources of assistance, but the sources are inadequate or are not available to meet the needs of the child;
- The expenses are beyond the economic resources of the adoptive family;
- The child is not in the custody of a PCSA or PCPA;
- The family resides in the county where application was made.

Services Covered by PASSS

PASSS funds may be used to cover:

- Medical, surgical services:
All medical and surgical services must be determined to be medically necessary by a qualified professional. OAC 5101:2-44-13.1(F)(1)
- Psychiatric, psychological and counseling services:
All psychiatric, psychological and counseling services must be determined to be necessary by a qualified professional. OAC 5101:2-44-13.1(F)(2)
- Residential treatment, therapeutic foster care or in-patient hospitalization services:
Residential treatment, therapeutic foster care or in-patient hospitalization services, if required by psychiatric, psychological or counseling needs and approved by a qualified professional. OAC 5101:2-44-13.1(F)(3)
- Respite care services:
Medical and surgical respite care services, if required by the medical or surgical needs of the child. OAC 5101:2-44-13.1(F)(4)(a)
Mental health respite care services, if required by the psychiatric, psychological or counseling needs of the child. OAC 5101:2-44-13.1(F)(4)(b)

PASSS may not:

- Be more than \$10,000.00 per child per state fiscal year (unless a waiver is sought through and granted by ODJFS);
- Pay for funding of legal fees to finalize the adoption;
- Pay for funding for adoptive placement services;
- Be used to purchase or acquire goods or services that are equal to or are of greater benefit to other members of the family;
- Be used for activities that are solely recreational in nature;
- Be used to provide services to a child for whom a parent/child relationship does not exist, even if the adoption decree has not been legally rescinded;
- Fund services which facilitate contact with a parent whose rights have been terminated;
- Fund services for a child in the custody of a PCSA;
- Include maintenance costs, unless they are included as part of the cost of a residential treatment program;
- Pay for educational services;
- Pay for dental and/or orthodontia services;
- Pay for medical co-payments, prescriptions or insurance deductibles;
- Pay for travel related expenses or automobile purchases and repairs;
- Pay for computer equipment, including software;
- Pay for child care services;
- Fund activities designed solely to improve self-esteem.

Approval of the Application

LCCS has a PASSS committee that reviews every application and all supporting documentation submitted by a family. If the committee requires more information, the family may be asked to submit additional documentation. The PASSS committee makes a recommendation to the Executive Director of LCCS who then approves or denies the application. The family will be informed of the decision within fifteen (15) days and will not exceed forty-five (45) days.

State Hearing Rights

Applicants not in agreement with decisions regarding any of the adoption subsidy programs mentioned, may apply for a county conference and/or state hearing. A state hearing is a meeting with the applicant, the public children services agency, and a hearing officer from the Ohio Department of Job and Family Services.

An applicant may request a state hearing if his/her child has been *denied* an adoption subsidy. (Complete the reverse side of "**Notice Denial of Your Application for Assistance**"; JFS 07334, rev. 9/2011)

An applicant may request a state hearing if an adoption subsidy is approved, but he/she disagrees with the amount or they receive a notice that the adoption subsidy is being

reduced or terminated. (Complete the reverse side of "**Notice of Approval of Your Application for Assistance**"; **JFS 04074**)

Mail to the Bureau of State Hearings at the address below:

Ohio Department of Job and Family Services

Bureau of State Hearings

P.O. Box 182825

Columbus, Ohio 43218-2825

Phone: 1-866-635-3748 or 1-866-ODJFS-4-U (Select the "Hearings" option from the automated menu).

Copies of this policy are available upon request.

CASE PRACTICE GUIDES

RELATED POLICIES and FORMS

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|------------|---|
| JFS 01050 | Application for Post Adoption Special Services Subsidy |
| JFS 01050A | Approval for Post Adoption Special Services Subsidy |
| JFS 01051 | Application for Additional PASSS Funding For Extraordinary Circumstances |
| JFS 01421 | Application for Reimbursement of Nonrecurring Adoption Expenses |
| JFS 01438 | Agreement for Payment or Reimbursement for Nonrecurring Expenses Incurred in the Adoption of a Special Needs Child |
| JFS 01449 | Determination of Special Needs - Medical, Mental Health or Rehabilitation Care |
| JFS 01451 | Title IV-E Adoption Assistance Application |
| JFS 01451B | Title IV-E Adoption Assistance Annual Assurance of Legal Responsibility School Attendance and Eligibility For Continued Medicaid Coverage |
| JFS 01453 | Adoption Assistance Agreement |
| JFS 01613 | Application for State Adoption Subsidy |
| JFS 01614 | Redetermination/Amendment of a State Adoption Maintenance Subsidy |
| JFS 01615 | Approval for State Adoption Maintenance Subsidy |
| JFS 01654 | Adoptive Placement Agreement |
| JFS 04059 | Explanation of State Hearing Procedures |
| JFS 04065 | Prior Notice of Right to A State Hearing |
| JFS 04074 | Notice of Approval of Your Application for Assistance |
| JFS 07216 | Combined Programs Application |
| JFS 07334 | Notice Denial of Your Application for Assistance |