ADOPTION OPTIONS - FUNDING, SUBSIDIES, AND TAX CREDITS

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I. EMPLOYMENT BENEFITS

According to Hewitt global business surveys, the number of employers providing benefits for adoptive families has grown from only 12 percent of large employers in 1990 to over 50% of large employers in their most recent survey. Benefits offered vary from company to company, and in various forms.

A. Types of Employment Adoption Benefits commonly offered

1. *Information*

   Access to Adoption Specialists or a human resources consulting firm which can help the employee research options and community resources, licensed adoption agencies, and special needs adoption resources.

2. *Financial Assistance*

   (a) Financial adoption benefit packages vary from company to company.

   (b) Expenses which are sometimes paid or reimbursed include:

   Attorney Fees
   Birth mother pregnancy costs
   Court Costs
   Foreign adoption fees
   Medical costs
   Placement/transision Counseling fees
   Public or private agency fees
   Temporary foster care charges
   Transportation costs

   (c) Many companies will provide for a partial (i.e 80%) coverage of some expenses up to an established ceiling (avg $4,000)

(d) Enhanced benefits may be provided for adoptions of children with special needs .

(e) Some companies offer a monetary benefit of between $1,000 and $15,000 for the adoption .

(f) Some companies pay benefits per adoption, while others pay per child adopted.

(g) Companies also vary regarding when payment is made with some paying the expenses as they are incurred while others pay reimbursement after the adoption is finalized.

3. *Medical Leave*

(a) FMLA requires covered companies (50 or more employees) to offer eligible employees twelve work weeks of leave in a 12-month period for the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement.

(b) Although this requirement is for "unpaid" leave, it at a minimum offers job and health benefit security during the leave period.

(c) Some companies offer longer leave periods, use of accumulated sick or vacation leave, and/or paid leave.

B. Employee Eligibility

Factors which often effect employee eligibility for corporate adoption benefits include:

Age of the adoptive child
Full-time employment status
Length of employment
Participation in a benefit package
Type of adoption

C. Actively maintained lists of companies offering adoption benefits

1. Dave Thomas Foundation
http://www.davethomasfoundation.org

2. The Holt International website
http://www.holtinternational.org/adoption/benefits.shtml

II. MILITARY BENEFITS

A. Installation Family Center Resources

1. Adoption support groups

2. Community resource information

3. Legal assistance office

4. New parent support classes

B. Financial Benefits for Active Duty Families

1. Up to $2,000 reimbursement for adoption expenses

2. Up to 21 days of adoption leave

3. Pre-finalization health care benefits

4. Qualified adoption expense reimbursement of $2,000 per adoptive child (up to a total of $5,000 for multi-child adoption per calendar year)

C. Health Care Benefits

1. Children under the age of 18 placed in the home of a service member by a placement agency for adoption are considered dependents.

2. With a court order for the placement, an adopted child is usually eligible for military health benefits.

D. Adoptive Parent Medical Leave

1. Service members are not eligible for adoption leave under the Family and Medical Leave Act.

2. By law, service members are permitted up to 21 days of non-chargeable leave, in addition to regular leave, to be used in connection with the adoption.

3. Leave is granted at the discretion of the service member's commander, but commanders are strongly encouraged to approve requests for ordinary leave once a child is placed in the home of the member for adoption to allow a period of bonding and time to establish arrangements for child care.

4. Only service members who are eligible for reimbursement of adoption expenses are eligible for leave.

5. Only one service member of a dual-member household is allowed this special leave.

6. Each Services has a different specific adoption leave regulation/policy

E. Caveats

1. The service member must be on active duty when filing for financial reimbursements.

2. Only one member of a dual-military couple may claim expenses for each adopted child.

3. Expenses for adoption of service member's children by a non-service connected step-parent do not qualify for reimbursement.

4. A separate DD Form 2675 for each child must be submitted no later than one year after the adoption is final.

5. Benefits are "reimbursements" so service member cannot get paid twice for the same expense by different programs.

III. ADOPTION SUBSIDIES

A. Duties of Investigation and Disclosure

Pursuant to the Ohio Revised Code Agencies have a duty to investigate and disclose the medical, psychological and educational status of a child who is eligible for adoption. s*ee ORC, see OAC*

B. Child Study Inventory

1. The child study inventory is a report that is written to document and disclose the medical, psychological, educational status of a child eligible for adoption. It is often called the CSI.

2. The CSI is critical because it effects the child's eligibility to receive subsidies after the adoption is completed.

C. The CSI should be ever evolving

1. Adoptive parents have a right to request changes and additions to the document.

2. Adoptive parents can also insist that the document have attachments

3. In the event that your client(s) and the agency have differing opinions regarding concerns for the child, be sure to document the concerns and insist this be attached to the CSI.

D. Investigating the child's needs – Your Client has a lot of catching up to do

1. Have your client document everything. Notebook, dates and times, follow up conversations, requests, and concerns in writing with social workers, school officials, medical providers

2. Social workers are tragically overworked. Have your client follow up conversations, etc. in writing there is a hard document for the social worker to refer to.

3. Have your client keep binders to keep copies of all correspondence and handouts

   (a) A binder for educational paperwork

   (b) A binder for medical correspondence, reports, etc.

4. Request that the agency provide releases to seek records:

   (a) HIPAA – fun! Go to Children's etc. and get a release that is already approved.

   (b) Focus search on the geographical areas where you know the child has resided. Unfortunately, many times underprivileged family got routine care at emergency rooms, stat care facilities, etc. For that reason start there

   (c) Ask for dental records – OSU dental clinic – Agency vouchers, etc.

   (d) Go to the health department and ask for lead clinic search

   (e) Other Sources include head start, school records, therapy records, hospital records – all departments

E. Confidentiality vs. the child's Needs

1. The agency should be gathering this information for your client. First ask them to do so in writing and be specific. If they will not get it together within one month of you request, have your client's pediatrician send a

letter asking for the information. If the agency still does not have the information, you offer to gather it with the releases you have gathered.

2. If the agency sites confidentiality as a concern, request that the agency provide a protective order for your client's signature or agree to release the information first to the agency and the child's medical providers.

F. Have Your Client Make Friends! – it takes a village to raise a child and to get a good subsidy award!

1. Recruit Your Client's Support Team

(a) Get good providers

(b) Pick a great pediatrician who takes Medicaid and is strong willed

i. They will refer the child to other specialists and will ultimately document concerns for your agency

ii. Have the pediatrician ask your agency for medical records, immunization records, hearing tests, allergies, etc. This will be a good test for the level of investigation that will need to be done.

iii. At the same time ask the pediatrician send a letter to your agency reporting current medical status and concerns.

(c) Have your client look for a good therapist for the child and you – be aware of the differences between a LSW and a PHD . If in doubt, have your client ask the pediatrician for a referral.

(d) Have your client meet with school officials regarding an IEP before the child is placed

(e) Have your client schedule regular follow up times with teachers – they can be very helpful and they can spot learning deficiencies and other concerns. Many times these teachers have seen specific behaviors before and can "tip you off".

(f) Have your client tap into his/her/their community, church, family, and friends, support groups RAD, etc.

(g) Confirm what is needed to qualify a respite care provider – back ground checks, etc.

(h) Get a good group of back up people to help your client. Make sure that your client is seen parenting the child so that someone can confirm concerns that your client may have for the child's behaviors. Make sure that there are people, besides your client that see the child grow to provide more opportunity for caring and to document concerns.

G. Subsidy Negotiations

1. Preplacement Period

(a) You should have the first draft of the CSI before you sign a placement agreement

(b) Ask what the foster care subsidy has been – and yes it is relevant

(c) Insist on the following

(d) Medicaid card (does not cost the agency anything)
(Keep in mind this is title VI Medicaid, not means tested Medicaid. Keep reminding the providers of this.)

(e) $250 per month unassigned subsidy

(f) Respite subsidy

(g) Therapy subsidy

2. Approach to budgeting

(a) Ask what specific initial costs you can expect?

(b) Have your client think, and ask about, expenses such as ensure, pull ups, Wheel chair accessibility, OTC Medications, clothing (new coat, etc.), age appropriate toys and books, exams, glasses

(c) Ask for how and when your client is eligible to be reimbursed.

(d) Insist a date certain when the subsidy will be renegotiated (90 days). Your client is being asked to sign a contract for services for a child that he/she knows virtually nothing about - it is ok to ask to have updates mde to the subsidy contract.

3. Post Placement – the honeymoon is over

(a) Special needs – what does it really mean? Bi-racial, multiple sibs, how are the definitions changing?

(b) Typical "special needs" Areas of concern.

i. Attachment

ii. Attention Deficit

iii. Hyperactivity

iv. Lead poisoning

v. Substance abuse

vi. Educational lag

vii. Organic problems

(c) Getting assessments for the child - very important

i. If you, teachers, or other care givers are noticing behaviors that cause concern, take the child to their pediatrician, and ask for a referral for testing.

ii. Ask the pediatrician to send a letter requesting that the agency pre-approve the requisite testing and send a letter requesting that the agency provide a letter to provider assuming financial responsibility for the testing and analysis. Most providers will not test without the letter confirming financial responsibility.

iii. In a perfect world your client would know who the best providers are. Ask the pediatrician, other parents, and/or come back to Children's Hospital. Make sure that you know a provider's limitations – ie. LSW vs. PHD.

iv. Be prepared this could take time.

H. What to Request

1. Services and Money

Relevancy: You have to prove that the child needs something extra in order to qualify for it. You need to document that the child has a need, how it can be filled and what it would cost.

Examples:

Dislexia – tutoring
Copy of grade card, copies of child's homework,
Letter from the teacher, iep
Child's psychological report
Price list from Sylvan's,
OSU reading Clinic, etc.

2. Additional testing

   If there are problems that are not yet identified seek the experts.

   Psychological, Neuropsychological, IEP assessment testing (free)

3. Additional counseling

   i. A very common need.

   ii. Most children have been in more than one placement and it is common to have adjustment issues, issues related to closure with the child's biological family, RAD, ADHD, etc.

4. Bonding therapy may be necessary.

   Talk to the pediatrician and the counselor to see if this could be right for the child. Get the referral letters early and insist that the agency pay for the assessment. Dr. Keck and his staff offer services locally.

I. What is not covered

1. Convenience items – house cleaning, taxi fares, etc.

2. Private schooling (unless the services cannot be provided in public schools with an IEP or the child is blind, deaf, medically fragile.)

   Caveat: even so, if you can show that the student to teacher ratio is better, document the effectiveness for the child, etc. and agency will work with you to increase your client's general funding.

3. Day care (other than respite)

4. Home remodeling (other than for handicap accessibility)

J. Final CSI and Final Subsidy Agreement

1. It is crucial that the CSI documents all of the proven and speculated concerns for the child's medical, educational and psychological background. Literally attach the medical and psychological reports to the CSI. If your client and the agency disagree about a particular issue, raise the issue in a letter and request that the letter be attached and made a part of the CSI.

   Any concerns for the child must be raised in the CSI in order to secure the right to seek additional funding related to that matter.

   Examples: biological parents substance abuse, hereditary physical matters.

2. The Settlement offer:

   (a) You will need letters from each provider about services that they can expect will be needed for the child. (From teacher, IEP specialist, therapist, pediatrician, orthodontist, etc...)

   (b) Provide a detailed description of how your client perceives the child's needs in every aspect of their life – medical, educational, and psychological. Include those items you can prove now and what you expect or have concerns for in the future.

   (c) Provide documentation of what you can expect those costs will be (i.e. Girl scouts (to help socialize), swimming lessons, occupational therapy, speech therapy, emotional therapy, medication regulation, pull ups, etc...)

   (d) **All of these exhibits should be related. i.e. the doctor's letter, the Sylvan price list, the receipt for tutoring.**

K. Federal subsidies

1. Is the child IV-5 eligible? (must meet one of each criteria)

   (1 required)
   * Child must have been: AFDC eligible in birth home or SSI Supplemental Security income eligible or IV-% foster care eligible

   +(1 required) AND Special needs or special needs risk

   + (1 required) AND voluntarily entered into the juvenile system OR judicially removed from the home

= IV-5 eligible or "special needs"

L. Finalization

1. Subsidies and budgets change. Ultimately a Judge or magistrate will ask you if your client can afford to raise the child if the child is no longer eligible for subsidies. You need to be prepared for that.

2. What are the minimum subsidies that you should expect?

   $2,000 non reoccurring subsidy per child per adoption - usually for legal fees, etc ...

   Medicaid card IV -5 eligible not means tested

   $250 - $500 per month for non medically fragile children

   $250 annual respite subsidy

   Therapy - either a specific dollar figure or a signed contract for financial responsibility

   * these can be renegotiated post decree

M. Post Adoption Subsides

1. PASSS – Post Adoption Special Services Subsides

   Upon application, each year a special award of money used to pay for eligible costs not covered by reoccurring subsidies

   (a) Residential treatment, bonding therapy, orthodontia, special needs camp

   (b) Eligibility is determined by the child's need and the family's inability to pay for the service

   (c) There is a cap of $15,000 per child per year

   (d) The child and the parent must reside in county

   (e) The child has a special need and the request is linked to a condition or set of circumstances which existed before the child's adoption was finalized.

(f) Must be medically necessary

2. Bureau for Children with Medical Handicaps

   (a) This is a state funded program in which medical providers participate and agree to take reduced rates.

   (b) It is for medical issues only including dental, optical, etc. –

   (c) It does not include counseling

   (d) BCMH is managed by the child's primary care doctor

   (e) Benefits are based upon the child’s needs and the parent’s ability to pay.

3. Renegotiation of monthly subsidies

   (a) Your client has the right to seek a modification of the monthly subsidy

   (b) Best results: change of circumstances (i.e. child older, new diagnosis that is related to or reasonably calculated to have been predicted - ie related to birth circumstances)

   (c) Administrative process

      i. Right to written decisions

      ii. Right to appeal

      iii. Right to an administrative hearing

4. Re-certification of IV-5 contract

   (a) Different form renegotiation of monthly subsidy

   (b) It is not means tested

   (c) Redone every 1-2 years

   (d) Must comply

G. Call To Action!

1. Get a full disclosure

2. Advocate for the child

3. Get it all in writing

III. FEDERAL AND STATE TAX CREDITS

A. Federal Tax Treatment in General

1. 26 USC 23 and 26 provide for: (i) an *exclusion* from the tax payer's gross income for employer covered qualified adoption expenses furnished pursuant to an adoption assistance program for the taxpayer in the adoption of an eligible child; and (ii) A tax *credit* for qualified adoption expenses paid by the taxpayer in the adoption of an eligible child.

2. An *eligible child* is an individual who is under the age of 18, or is physically or mentally incapable of self-care.

3. *"Qualified" Adoption Expenses (26 U.S. Code Sec. 23)* include: (i) Reasonable and necessary adoption fees; (ii) Court costs and attorney fees; (iii) Traveling expenses (incl. meals and lodging while away from home); and (iv) "Other expenses" that are directly related to and for the principal purpose of the legal adoption of an eligible child.

   (a) Does not include step-parent adoption expenses.

   (b) Does include expenses incurred by a registered domestic partner who lives in a state that allows same sex second parent or co-parent to adopt his or her partner’s child.

   (c) The exclusion and the credit have separate caps of $10,000.00, plus inflation adjustment. However, excess expenses can be carried forward by the tax payer for 5 years. Also, if the adopted child has special needs, the taxpayer does not have to show actual qualified expenses to be eligible for the full exclusion and credit.

   (d) Both the exclusion and the credit are subject to a phase out based on the taxpayer's modified adjusted gross income (MAGI). Since this is also adjusted for inflation, the bracket also changes from year to year.

B. Federal Tax Exclusion and Credit Amounts for 2016

2. Gross Income Exclusion:

   (a) Maximum exclusion of $13,460 from employee’s gross income.

(b) Exclusion Phases Out at MAGI of $201,920 to $241,920

2. Tax Credit:

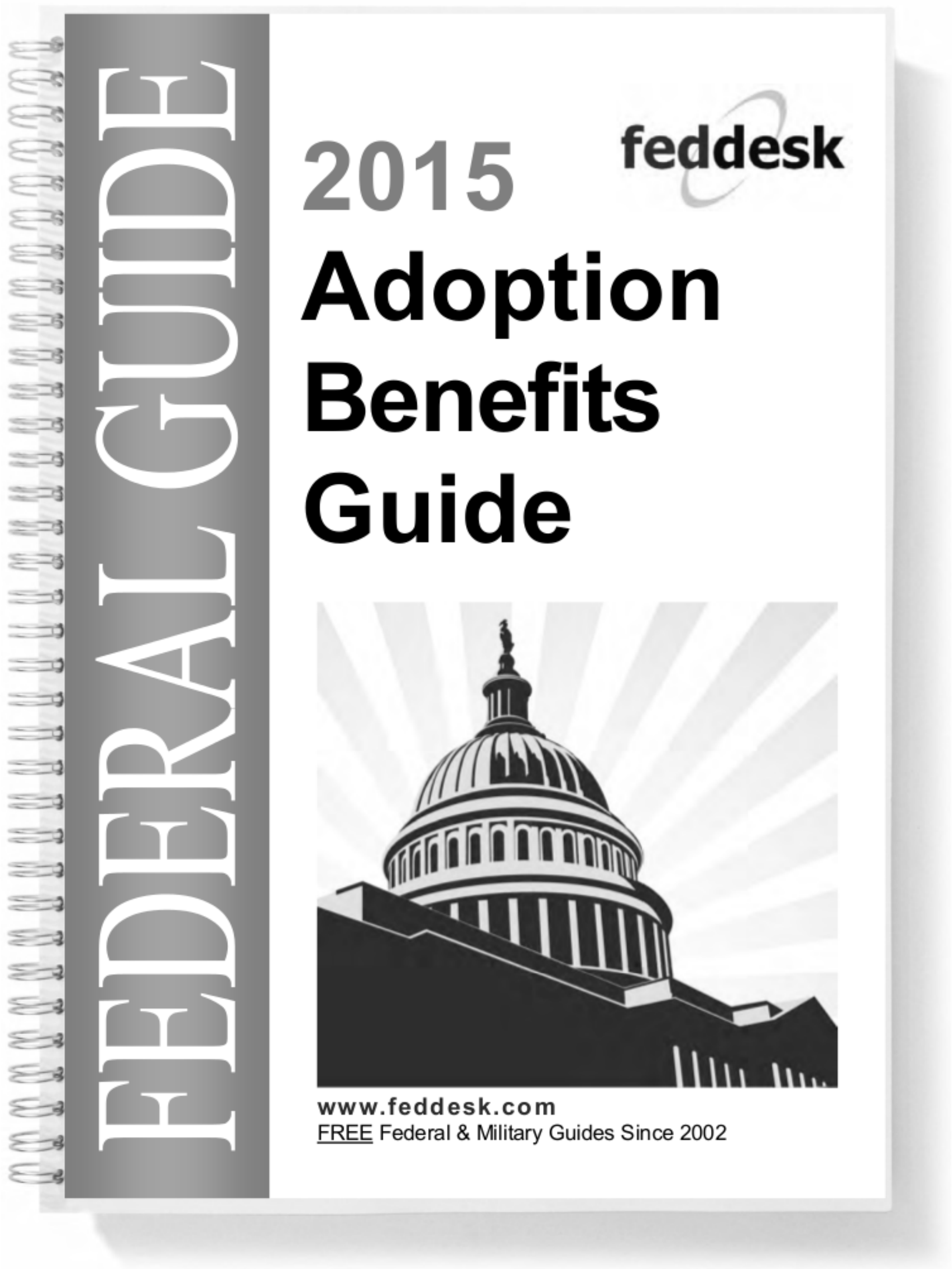
   (a) Maximum Non-Refundable Tax Credit of $13,460

   (b) Tax Credit Phases Out at MAGI of $201,920 to $241,920

B. Ohio State Tax Credit

1. In addition to and separate from the federal adoption income tax exclusion and credit, the State of Ohio allows a $10,000 Ohio income tax credit for each legally adopted minor child.

2. The Ohio tax credit does not cover expenses related to step-parent adoption.



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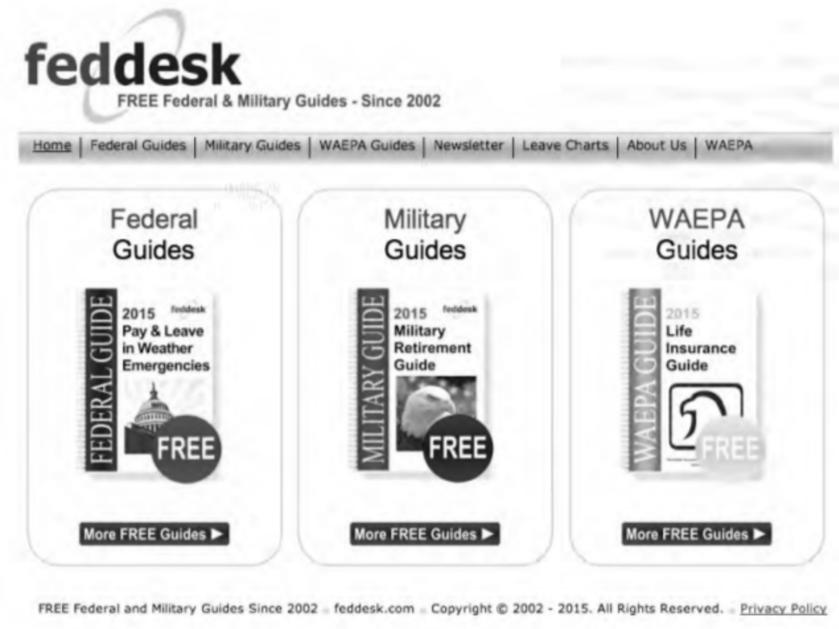

2015 Adoption Benefits Guide

Published by Feddesk.com

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Contents

Introduction

Adoption can be a challenging and rewarding experience and the Federal Government provides a number of work/life programs and benefits which can ease the adoption process for Federal employees.

Work/life programs are spreading across Government and making it easier for Federal employees to balance all aspects of their lives, including helping employees with the adoption process.

This Adoption Benefits Guide provides questions and answers on leave programs and health and tax benefits available to Federal employees who are prospective adoptive parents.

It also provides information on other Federal adoption assistance, State adoption subsidy programs, and national adoption resources.

5101.141 Administering federal payments for foster care and adoption assistance.

(A) As used in sections 5101.141 to 5101.1410 of the Revised Code, "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.

(B) The department of job and family services shall act as the single state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E. The director of job and family services shall adopt rules to implement this authority. Rules governing financial and administrative requirements applicable to public children services agencies and government entities that provide Title IV-E reimbursable placement services to children shall be adopted in accordance with section 111.15 of the Revised Code, as if they were internal management rules. Rules governing requirements applicable to private child placing agencies and private noncustodial agencies and rules establishing eligibility, program participation, and other requirements concerning Title IV-E shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds shall administer the funds in accordance with those rules.

(C)

(1) The county, on behalf of each child eligible for foster care maintenance payments under Title IV-E, shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division (C)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E, make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions (C)(1) and (2) of this section.

(D) To the extent that either foster care maintenance payments under division (C) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.

(E) The department shall distribute to public children services agencies that incur and report expenditures of the type described in division (D) of this section federal financial participation received

for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the following:

(1) The Ohio child welfare training program established under section 5103.30 of the Revised Code;

(2) The university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation;

(3) Efforts supporting organizational excellence, including voluntary activities to be accredited by a nationally recognized accreditation organization.

The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code.

(G) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of social services to children in relation to whom all of the following apply:

(1) They have special needs.

(2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf.

(3) They move into this state from another state or move out of this state to another state.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 06-26-2003; 09-21-2006; 2007 HB119 09-29-2007

Chapter 5101:2-36 Screening and Investigation

5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency and family in need of services reports; and information and/or referral intakes.

(A) A public children services agency (PCSA) shall attempt to obtain, at a minimum, the following information from a referent/reporter making a referral regarding child safety, risk of child maltreatment or need for services in order to determine an intake category and arrive at a screening decision. Receipt of all of the following information is not required in order to screen in a report or to categorize the information as information and/or referral:

(1) The name(s) and address(es) of the child and his parent, guardian or custodian and all household members.

(2) The child's age.

(3) The child's and any family member's race and ethnicity.

(4) The type, extent, frequency, and duration of the abuse, neglect or dependency, as applicable.

(5) Alleged perpetrator's access to the child, if applicable.

(6) The child's current condition.

(7) The child's current location.

(8) Circumstances regarding the abuse, neglect, or dependency or the circumstances indicating a need for PCSA services.

(9) Information regarding any evidence of previous injuries, abuse, or neglect.

(10) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or the known or suspected threat of injury, abuse, or neglect or the case circumstances that support the family is in need of PCSA services.

(B) The PCSA may request that a referent/reporter providing information submit the allegations in writing. The PCSA shall not delay making the screening decision while waiting for the written information from the referent/reporter.

(C) All information reported to a PCSA alleging known or suspected child abuse, neglect, or dependency, or indicating a family is in need of PCSA services shall be recorded in the statewide automated child welfare information system (SACWIS) in accordance with the following:

(1) Referral information received shall be recorded in SACWIS no later than the next working day from the date of the receipt of the referral information.

(2) The original date and time the referral information is received by the PCSA shall be reflected in SACWIS including the actual date and time of the screening decision.

(D) If a PCSA receives a referral alleging abuse or neglect of a child located in Ohio and the child's

parent, guardian or custodian resides in another state, the PCSA shall:

(1) Contact the children services agency (CSA) and inform the CSA of the referral pursuant to rule 5101:2-36-13 of the Administrative Code.

(2) If the referral is not accepted by the CSA where the child's parent, guardian or custodian resides, the PCSA shall categorize and complete a screening decision in accordance with this rule.

(E) If a PCSA receives a referral alleging an incident of child abuse or neglect that occurred in Ohio, the child is located outside of Ohio, and the child's parent, guardian or custodian resides in another state, the PCSA shall:

(1) Contact the CSA and inform the CSA of the referral pursuant to rule 5101:2-36-13 of the Administrative Code.

(2) Make a referral to the law enforcement agency with jurisdiction if the referral alleges a criminal offense.

(F) The PCSA shall categorize the information received into one of the following intake categories:

(1) Child abuse and/or neglect report.

(a) Physical abuse, in accordance with section 2151.031 of the Revised Code, and any report alleging either of the following:

(i) An infant identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(ii) An infant diagnosed with a fetal alcohol spectrum disorder.

(b) Physical abuse, shaken baby, in accordance with section 2151.031 of the Revised Code.

(c) Sexual abuse, in accordance with section 2151.031 of the Revised Code and Chapter 2907. of the Revised Code.

(d) Emotional maltreatment/mental injury, in accordance with section 2151.011 or 2151.031 of the Revised Code.

(e) Neglect, in accordance with section 2151.03 of the Revised Code.

(f) Medical neglect, in accordance with section 2151.03 of the Revised Code.

(g) Disabled infant, also known as "Baby Doe", in accordance with rule 5101:2-36-07 of the Administrative Code.

(2) Dependency report. Dependent child, as defined in section 2151.04 of the Revised Code.

(3) Family in need of services report.

(a) Emancipated youth, in accordance with rule 5101:2-42-19.2 of the Administrative Code.

(b) Permanent surrender, in accordance with rule 5101:2-42-09 of the Administrative Code.

(c) Deserted child, as defined in rule 5101:2-1-01 of the Administrative Code and in accordance with rule 5101:2-36-06 of the Administrative Code.

(d) Stranger danger investigation, in accordance with rule 5101:2-36-05 of the Administrative Code for a child whom the PCSA considers to be in need of public care or protective services.

(e) Post-finalization adoption services, in accordance with rule 5101:2-1-01 of the Administrative Code upon the request of the birth parent, adoptive parent or adoptee.

(f) Preventive services, as defined in rule 5101:2-1-01 of the Administrative Code for a child whom the PCSA considers to be in need of public care or protective services.

(g) Unruly child/delinquent child, whom the PCSA considers to be in need of public care or protective services in accordance with section 5153.16 of the Revised Code and memorandum's specified in rule 5101:2-33-26 of the Administrative Code.

(h) Child fatality, non-child abuse/neglect, in accordance with rule 5101:2-42-89 of the Administrative Code.

(i) Required non-lead PCSA interviews, in accordance with rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-09 of the Administrative Code and sections 5103.20 and 2151.56 of the Revised Code.

(j) Courtesy supervision in accordance with sections 5103.20 and 2151.56 of the Revised Code.

(k) Home evaluation/visitation assessment, in accordance with rules 5101:2-1-01 and 5101:2-42-18 of the Administrative Code or in response to a request from another PCSA or a court exercising appropriate jurisdiction.

(l) Pre-placement or postnatal services for the placement of an infant of an incarcerated mother, in accordance with rule 5101:2-42-60 of the Administrative Code.

(m) Adoption subsidy only in accordance with Chapter 5101:2-49 of the Administrative Code.

(n) Interstate compact on the placement of children (ICPC) in accordance with rule 5101:2-52-04 of the Administrative Code.

(o) Alternative response required non-lead PCSA contacts, in accordance with rule 5101:2-36-20 of the Administrative Code.

(4) Information and/or referral, pursuant to rule 5101:2-1-01 of the Administrative Code, if paragraph (F)(1), (F)(2), or (F)(3) of this rule do not apply.

(G) The PCSA shall complete the screening decision and determine the immediacy of need for agency response to ensure child safety within twenty-four hours from receipt of the information and following the categorization of the referral information in accordance with paragraphs (F)((1), (F)(2), and (F)(3) of this rule based on the information received from the referent/reporter and the child protective services records regarding the principals of the report.

(H) If the PCSA screens out a referral of abuse or neglect and a principal of the report is a person responsible for the child's care in an out-of-home care setting pursuant to rule 5101:2-1-01 of the Administrative Code, the PCSA shall notify licensing and supervising authorities, as appropriate, no

later than four working days from the date of the screening decision to share information.

(I) PCSAs that have written approval from the Ohio department of job and family services to participate in alternative response shall assign reports screened in and categorized pursuant to paragraph (F)(1) of this rule to one of the following pathways:

(1) Traditional response, pursuant to Chapters 5101:2-36, 5101:2-37, and 5101:2-38 of the Administrative Code.

(2) Alternative response, pursuant to rules 5101:2-36-20 and 5101:2-38-20 of the Administrative Code.

(J) The PCSA shall assign the following types of reports of child abuse and/or neglect to the traditional response pathway:

(1) Reports containing allegations that could result in charges of felony child endangering.

(2) Physical abuse resulting in serious injury or that creates a serious and immediate risk to a child's health and safety.

(3) Reports containing allegations that could result in charges of criminal sexual conduct.

(4) Reports containing allegations of the sexual abuse of a child or an abused child who is also a victim of sexual abuse.

(5) Reports containing allegations that could result in charges of homicide.

(6) Reports requiring a specialized assessment as identified in rule 5101:2-36-04 of the Administrative Code.

(7) Reports requiring a third party investigative procedure as identified in rule 5101:2-36-08 of the Administrative Code.

(8) Reports containing allegations regarding a suspicious child fatality.

(K) All referral information categorized as information and/or referral pursuant to paragraph (F)(4) of this rule shall be screened out. The PCSA shall identify which of the following activities was completed by the PCSA.

(1) Directed/advised to contact non-PCSA service provider within the county.

(2) Directed/advised to contact non-PCSA service provider outside the county.

(3) Provided information only/no referral made.

(4) Additional information received on an open case that is not alleging abuse or neglect of a child.

(L) The PCSA may refer the referent/reporter to the county prosecutor pursuant to the county child abuse and neglect memorandum of understanding developed pursuant to section 2151.421 of the Revised Code.

(M) Additional child abuse and/or neglect allegations screened in within the first four working days of the acceptance of a child abuse and/or neglect report and prior to the completion of an assessment of safety with the child and the parent/caregiver, may be added to the initial report and assessed/investigated concurrently with the allegations received initially. The date and time the subsequent report was received along with the reporter information shall be recorded.

(N) Additional child abuse and/or neglect allegations screened in after the first four working days of the acceptance of the previous child abuse and/or neglect report or after completion of the assessment of safety shall be recorded as a subsequent child abuse and/or neglect report and are subject to the requirements contained in rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-05 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421, 2151.3518, 5153.166
Rule Amplifies: 2151.421, 2151.3518, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97, 3/01/06, 10/01/09, 07/01/11

5101:2-36-03 PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations.

(A) A public children services agency (PCSA) shall conduct an intra-familial child abuse and/or neglect assessment/investigation in response to a child abuse and/or neglect report if one or more of the following applies:

(1) The alleged perpetrator is a member of the alleged child victim's family.

(2) The alleged perpetrator is known to the family or child and has had access to the alleged child victim, whether or not the access was known or authorized by the child's parent, guardian or custodian.

(3) The alleged perpetrator is involved in daily or regular care for the alleged child victim, excluding a person responsible for the care of a child in an out-of-home care setting.

(B) An intra-familial assessment/investigation shall involve a third party if a principal named in the report poses a conflict of interest for the PCSA pursuant to rule 5101:2-36-08 of the Administrative Code.

(C) The PCSA may request the assistance of law enforcement during an assessment/investigation if one or more of the following situations exist and the reason for contacting law enforcement is documented in the case record:

(1) The agency has reason to believe that the child is in immediate danger of serious harm.

(2) The agency has reason to believe that the worker is, or will be, in danger of harm.

(3) The agency has reason to believe that a crime is being committed, or has been committed against a child.

(4) The assistance of law enforcement needs to be invoked in accordance with the county child abuse

and neglect memorandum of understanding.

(D) The PCSA shall initiate the screened in child abuse and/or neglect report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition, and can provide current information about the child's safety.

(3) If face-to-face contact with the alleged child victim was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact with the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(E) The PCSA shall document in the case record the date, time, and with whom the assessment/investigation was initiated.

(F) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code.

(1) The PCSA shall attempt face-to-face contact with the alleged child victim and a parent,guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (F)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date the referral was screened in as a report.

(G) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (D) and (F) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (U) or (V) of this rule.

(H) The PCSA shall not interview the alleged child victim or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(I) Should an alleged child victim provide information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(J) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

(K) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete a telephone contact with the child's parent, guardian, or custodian to inform them that an interview of the child occurred and provide the specific facts necessitating the child be contacted without parental consent.

(L) If the attempt to contact the child's custodian pursuant to paragraph (K) of this rule is unsuccessful, the PCSA shall continue to attempt to complete face-to-face contact with the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA is required to make a case disposition pursuant to paragraphs (U) and (V) of this rule.

(M) The PCSA shall conduct and document face-to-face interviews with each child residing within the home of the alleged child victim. If possible each child should be interviewed separately and apart from the alleged perpetrator. The purpose of the interviews is to:

(1) Evaluate each child's condition.

(2) Determine if each child is safe.

(3) Obtain each child's explanation regarding the allegations contained in the report.

(N) The PCSA need not interview a child if it is determined that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child, unless requested by the lead PCSA pursuant to paragraph (AA) or (BB) of this rule.

(O) The PCSA shall conduct and document face-to-face interviews with the alleged perpetrator and all adults residing in the home of the alleged child victim, unless law enforcement or the county prosecutor will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to:

(1) Assess his or her knowledge of the allegation.

(2) Observe the interaction between the alleged child victim and caretaker.

(3) Obtain relevant information regarding the safety and risk to the child.

(P) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(Q) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(R) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of areas of trauma on the child's body.

(2) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(3) Attempting to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(4) Attempting to secure any relevant records, including but not limited to school, mental health, and medical records.

(S) At any time the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(T) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(U) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model -I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(V) If the child abuse and/or neglect report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the report disposition by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

(1) The JFS 01402 shall be completed no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report.

(2) The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(W) The PCSA shall not waive the completion of the report disposition.

(X) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, and/or the court if refused access to the alleged child victim or any records necessary to conduct the assessment/investigation.

(Y) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(Z) Within two working days of completion of the assessment/investigation, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the report disposition and final case decision.

(2) Notify the alleged perpetrator in writing of the report disposition; the right to appeal; and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated report of child abuse or neglect regardless of the child's role in the report.

(4) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and the case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(AA) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, legal custodian of the alleged child victim resides.

(3) If an order of shared parenting has been issued and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(BB) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the

county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(CC) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, JFS 01400, and/or JFS 01402 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(DD) The PCSA shall follow procedures set forth in rule 5101:2-36-07 of the Administrative Code if the report involves alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.

(EE) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16.
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97; 4/1/01, 12/1/01, 6/25/04, 03/01/06, 10/01/09, 03/01/12

5101:2-36-04 PCSA requirements for conducting a specialized assessment/investigation.

(A) The public children services agency (PCSA) shall conduct a specialized assessment/investigation if the child abuse or neglect report involves an alleged perpetrator who meets one or more of the following criteria:

(1) Is a person responsible for the alleged child victim's care in an out-of-home care setting as defined in rule 5101:2-1-01 of the Administrative Code.

(2) Is a person responsible for the alleged child victim's care in out-of-home care as defined in section 2151.011 of the Revised Code.

(3) Has access to the alleged child victim by virtue of his/her employment by or affiliation to an institution.

(4) Has access to the alleged child victim through placement in an out of home care setting.

(B) A specialized assessment/investigation shall require a third party if a principal named in the report poses a conflict of interest for the PCSA pursuant to rule 5101:2-36-08 of the Administrative Code.

(C) If a specialized assessment/investigation of an abuse and/or neglect report involves multiple alleged child victims from multiple cases, the PCSA shall complete a separate assessment/investigation for each case. The completion of the JFS 01403, " Specialized Assessment and Investigation" (rev. 2/2006) is required for each case.

(D) The PCSA shall initiate the screened in child abuse and/or neglect report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition, and can provide current information about the child's safety.

(E) If face-to-face contact with the alleged child victim was not completed within the twenty-four hour time frame, an attempt of face-to-face contact with the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(F) The PCSA shall document in the case record the date, time, and with whom the specialized assessment/investigation was initiated.

(G) If the attempted face-to-face contact with the alleged child victim, as specified in paragraphs (D) and (E) of this rule is unsuccessful, the PCSA shall continue to make attempts for face-to-face contact , every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (T) of this rule.

(H) If a child abuse and/or neglect report involves an alleged child victim, or the sibling of an alleged child victim who was not named as an alleged child victim, who is not in the custody of a PCSA or PCPA, the PCSA shall not interview the child without parental consent unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(I) Should an alleged child victim provide information during an interview that indicates a sibling might

be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(J) The specific facts necessitating that assessment/investigative interviews of a child be conducted without parental consent must be documented in the case record.

(K) If an alleged child victim is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face or complete a telephone contact with the alleged child victim's parent, guardian, or custodian to inform them that an interview of their child occurred.

(1) If the attempt to contact the child's custodian pursuant to paragraph (K) of this rule is unsuccessful, the PCSA shall continue to attempt to contact the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA makes a report disposition pursuant to paragraph (T) of this rule.

(2) The PCSA shall document in the case record the date and time of the contact, or attempted contacts.

(L) If the PCSA conducts a specialized assessment/investigation, the PCSA shall:

(1) Within twenty-four hours of the screening decision contact the out-of-home care setting administrative officer, director, or other chief administrative officer, or if the administrative officer, director or other chief administrative officer is alleged to be the perpetrator, the board of directors, county commissioners, or law enforcement as applicable in order to:

(a) Share information regarding the report.

(b) Discuss what actions have been taken to protect the alleged child victim.

(c) Provide information about the assessment/investigation activities that will follow.

(2) No later than the next working day, from the date the referral was screened in as a child abuse and/or neglect report inform the parent(s), guardian, or custodian of the alleged child victim that a report of abuse and/or neglect involving his or her child is being assessed/investigated and of the allegations contained within the report .

(3) No later than the next working day, from the date the referral was screened in as a child abuse and/or neglect report contact licensing and supervising authorities, as appropriate, to share information .

(4) Attempt to coordinate the interview of the alleged child victim if another agency is required by statute or administrative rule to conduct its own assessment/investigation to minimize the number of interviews of the child .

(5) Conduct and document face-to-face interviews with the alleged child victim to:

(a) Evaluate the alleged child victim's condition.

(b) Determine whether the child is safe.

(c) Obtain the alleged child victim's explanation regarding the allegations contained in the report.

(6) Conduct and document all face-to-face interviews with the alleged perpetrator, unless law enforcement or the county prosecutor will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to assess his or her knowledge of the allegation.

(7) Advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(8) Conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the privacy of the principals of the report.

(9) As appropriate, conduct and document all face-to-face interviews with the parent, guardian, or custodian and/or caretaker of the alleged child victim to gather relevant information regarding the parent, guardian, or custodian and/or caretaker's ability to keep the child safe and identify what, if any, services are needed by the family.

(10) Attempt to secure any relevant records necessary to assess safety and risk to the child, including but not limited to school, mental health, medical, incident reports in an out-of-home care setting.

(11) Take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(a) Taking photographs of areas of trauma on the child's body.

(b) Taking photographs of the child's environment with the consent of the out-of-home setting administrator.

(c) Securing a medical examination or psychological evaluation, or both, of the child with the consent of the child's parent, guardian, or custodian or with a court order.

(M) The PCSA does not have to interview an alleged child victim if the PCSA determines that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child, unless requested by the lead PCSA pursuant to paragraphs (R) and (Y) of this rule.

(N) At any time the PCSA determines a child is in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 or 5101:2-39-03 of the Administrative Code.

(O) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(P) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the alleged child victim or any records necessary to conduct the specialized assessment/investigation.

(Q) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, has limited English proficiency or is developmentally delayed.

(R) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, legal custodian of the alleged child victim resides. .

(3) If an order of shared parenting has been issued, and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(S) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01403 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(T) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01403 no later than forty-five days from the date the PCSA screened in the referral as a child abuse and neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(U) Investigative activities conducted independently by other agencies, does not relieve the PCSA of its responsibility for concluding an assessment/investigation in accordance with this rule. The PCSA shall not waive the completion of the report disposition.

(V) Within two working days of completion of the JFS 01403, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand, and the child's parent, guardian, or custodian of the report disposition and the final case decision.

(2) Notify the alleged perpetrator in writing of the report disposition; the right to appeal ; and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated report of child abuse or neglect regardless of the child's role in the report.

(4) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and the case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(W) No later than three working days from the date of the completion of the report disposition, the PCSA shall provide written notification of the report disposition to the following entities, as applicable, in accordance with rules 5101:2-33-21 and 5101:2-36-12 of the Administrative Code:

(1) Administrator, director, or other chief administrator of the out-of-home care entity.

(2) The owner or governing board of the out-of-home care entity.

(3) The appropriate licensing and supervising authorities of the out-of-home care entity.

(X) The PCSA shall not provide witness statements, police reports, or other investigative reports to the entities described in paragraph (W) of this rule.

(Y) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(Z) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16

Rule Amplifies: 2151.3516, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/01/06, 10/01/09, 03/01/12

5101:2-36-05 PCSA requirements for conducting stranger danger investigations.

(A) A public children services agency (PCSA) shall conduct a stranger danger investigation in response to a child abuse report alleging a criminal act against a child of assault or sexual activity as defined under Chapter 2907. of the Revised Code, if the alleged perpetrator was unknown to the alleged child victim and the alleged child victim's family prior to the incident(s).

(B) The PCSA shall refer the report to the appropriate law enforcement authority pursuant to rule 5101:2-36-12 of the Administrative Code within twenty-four hours of the time the report was screened in, unless the report was received from the law enforcement agency with jurisdiction.

(C) The PCSA shall initiate the stranger danger report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, the PCSA shall attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition and can provide current information about the child's safety.

(3) If face-to-face contact with the alleged child victim was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(D) The PCSA shall document in the case record the date, time and with whom the assessment/investigation was initiated.

(E) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code .

(1) The PCSA shall attempt face-to-face contact with the alleged child victim and a parent, guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (C) and (E) of this rule are unsuccessful, the PCSA shall, at a minimum continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (S) of this rule.

(G) The PCSA shall not interview the alleged child victim or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(H) Should an alleged child victim provide information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(I) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

(J) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete telephone contact with the child's parent, guardian, or custodian to inform them that an interview of their child occurred. If unsuccessful, an attempt to complete face-to-face contact shall occur once every five working days until contact is made with the child's parent, guardian, or custodian or until the PCSA is required to make a report disposition pursuant to paragraph (S) of this rule.

(K) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(L) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(M) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of areas of trauma on the child's body.

(2) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(3) Attempting to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(4) Attempting to secure any relevant records, including but not limited to school, mental health, and medical records.

(N) If the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(O) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(P) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the investigation process.

(Q) Prior to completion of the report disposition, the PCSA shall contact law enforcement and document information regarding the status of the criminal investigation in the case record. The PCSA shall notify the prosecuting attorney if there is reason to believe the alleged perpetrator has not been investigated by law enforcement.

(R) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the alleged child victim or any records necessary to conduct the investigation.

(S) The PCSA shall complete the report disposition no later than forty-five days from the date the PCSA determines that the referral is screened in as a family in need of services stranger danger report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(T) The PCSA shall not waive the completion of the report disposition.

(U) A JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006), shall be completed pursuant to rule 5101:2-37-03 of the Administrative Code at any time the PCSA determines that the family of the alleged child victim is unable or unwilling to protect the child. The PCSA will assess and determine whether the family and/or child is in need of supportive services by the PCSA or the community.

(V) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county the custodial parent, legal guardian, legal custodian of the alleged child victim resides. If an order of shared parenting has been issued and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(3) If an order of shared parenting has been issued, and a residential parent has not been designated

by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(W) Within two working days of completion of the assessment/investigation, the PCSA shall:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the report disposition and if applicable, the final case decision.

(2) Notify the alleged perpetrator, if known, in writing of the report disposition; and their right to appeal, and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated case of child abuse or neglect regardless of the child's role in the report.

(4) Document in the case record, the date and method of notification to the principals of the report.

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(X) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(Y) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the investigation within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(Z) The investigation documentation and any materials obtained as a result of the investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 6/1/97, 2/1/03, 3/01/06, 10/01/09

5101:2-36-06 PCSA requirements for a deserted child assessment/investigation.

(A) A public children services agency (PCSA) shall conduct a deserted child assessment/investigation if all of the following apply to the child subject of the report:

(1) The child is fewer than thirty-one days old.

(2) The child was voluntarily left by the child's parent in the care of an emergency medical service worker, peace officer, or hospital employee by the child's parent(s).

(3) The child was left and the child's parent(s) did not express an intention to return for the child.

(B) The PCSA shall initiate the screened in report by attempting face-to-face contact with the child subject of the report within one hour from the time the referral was screened in as a report.

(C) The PCSA shall contact the individual who originally took possession of the child and obtain:

(1) The date and time the child subject of the report was left with the individual.

(2) All information regarding the child left by the parent(s).

(3) The JFS 01672 "Voluntary Medical History For Safe Havens" (rev. 3/2009) form, if completed by the child's parent(s).

(4) All clothing and articles left with the child.

(D) The PCSA shall accept emergency temporary custody of the child subject of the report.

(E) The PCSA shall arrange for the child subject of the report to be examined by a physician within one hour of face-to-face contact with the child subject of the report.

(1) The examination shall assess the health and well being of the child and indicators of maltreatment.

(2) If the child subject of the report is not left at a hospital, the PCSA shall transport, or arrange for transportation of the child to the nearest appropriate hospital emergency department.

(F) The PCSA shall obtain the medical examination report from the physician .

(G) The PCSA shall screen in a report of child abuse and/or neglect if any of the following occur during the assessment/investigation of a deserted child:

(1) The child's condition reasonably indicates abuse and/or neglect.

(2) The PCSA determines that someone other than the parent delivered the child subject of the report to the care of an emergency medical service worker, peace officer, or hospital employee.

(3) The child subject of the report is determined to be more than thirty days old at the time the child was delivered to the care of an emergency medical service worker, peace officer, or hospital employee.

(H) The PCSA shall place the child subject of the report in substitute care pursuant to rule 5101:2-42-04 of the Administrative Code and provide a copy of the medical examination report to the caregiver.

(I) The PCSA shall contact the following agencies and determine if a child matching the description of the child subject of the report has been reported missing:

(1) Local law enforcement.

(2) Ohio's missing children's information clearinghouse (http://www.mcc.ag.state.oh.us/).

(3) National center for missing and exploited children (http://www.missingkids.com/).

(J) The PCSA shall complete activities to obtain a birth certificate and a social security card for the child subject of the report.

(K) The PCSA shall complete the deserted child assessment/investigation no later than forty-five days from the date the referral was screened in as a report.

(L)

(M) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 12/1/01, 3/01/06, 10/01/09

5101:2-36-07 PCSA requirement for conducting an assessment/investigation of the alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.

(A) The public children services agency (PCSA) shall conduct an assessment/investigation if a neglect report alleges the withholding of medically indicated treatment from a disabled infant with life-threatening condition(s).

(1) The withholding of medically indicated treatment is the refusal to provide appropriate nutrition, hydration, medication or other medically indicated treatment from a disabled infant with a life-threatening condition.

(2) Medically indicated treatment includes the medical care most likely to relieve, or correct, the life-threatening condition. Nutrition, hydration, and medication, as appropriate for the infant's needs, are medically indicated for all disabled infants; as well as, the completion of appropriate evaluations or consultations necessary to assure that sufficient information has been gathered to make informed

medical decisions on behalf of the disabled infant.

(3) In determining whether treatment is medically indicated, reasonable medical judgments made by a prudent physician, or treatment team, knowledgeable about the case and its treatment possibilities are considered. The opinions about the infant's future "quality of life" are not to bear on whether or not a treatment is judged to be medically indicated. Medically indicated treatment does not include the failure to provide treatment to a disabled infant if the treating physician's medical judgment identifies any of the following:

(a) The disabled infant is chronically and irreversibly comatose.

(b) The provision of the treatment is futile and will prolong dying.

(c) The provision of the treatment would not be effective in ameliorating or correcting all of the disabled infant's life threatening conditions.

(d) The provision of such treatment to the disabled infant is inhumane.

(B) The PCSA shall initiate the screened in medical neglect report in accordance with the following:

(1) Complete face-to-face or telephone contact with the health care facility's administrator, or designee, within one hour from the time the referral was screened in as a report.

(2) Obtain the following information from the health care facility's administrator, or designee, regarding the current condition of the disabled infant, including but not limited to:

(a) The physical location of the disabled infant within the hospital, e.g., emergency room, neonatal intensive care unit, labor and delivery, sixth floor, etc.

(b) The disabled infant's age.

(c) The disabled infant's diagnoses or diagnosis and the prognosis.

(d) The problem requiring treatment.

(e) The immediate actions necessary to keep the disabled infant alive.

(f) Whether or not the withholding of life-sustaining treatment has been recommended.

(g) Whether or not the withholding of life-sustaining treatment has been implemented.

(h) Whether or not the parent, guardian, or custodian has refused to consent to life-sustaining treatment.

(i) Whether or not the hospital chose to sustain life-supporting care for the immediate future, preceding ninety-six hours from the date and time the PCSA initiated the report, while the assessment/investigation is underway.

(j) Whether or not sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.

(C) The PCSA shall document in the case record the date, time, and with whom the assessment/investigation was initiated.

(D) The PCSA shall involve a qualified medical consultant within twenty-four hours from the time the referral was screened in as a report to assist in the evaluation of the disabled infant's medical information, including medical records, obtained during the preliminary medical assessment.

(E) If the PCSA determines the child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(F) The PCSA shall pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child if such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.

(G) The PCSA shall attempt a face-to-face contact in order to conduct an interview with the alleged disabled infant's parent, guardian, or custodian no later than twenty-four hours from the time the referral was screened in as a report. The purpose of the interview is to:

(1) Inform the parent, guardian, or custodian that a neglect report alleging the withholding of medically indicated treatment to a disabled infant has been accepted by the PCSA.

(2) Inform the parent guardian, or custodian of the purpose of the assessment/investigation.

(3) Seek parental consent for medically indicated treatment, if applicable.

(4) Confirm parent, guardian, or custodian's name and identifying information.

(5) Determine if parent, guardian, or custodian agrees on the course of action to be followed.

(6) Determine if the parent, guardian, or custodian was presented with all treatment options by the medical treatment team.

(7) Determine if the prognosis of the disabled infant was presented to the parent, guardian, or custodian.

(8) Assess if the parent, guardian, or custodian understands the information provided by the medical treatment team.

(9) Determine the nature and degree of parental involvement in the decision to deny treatment or sustenance to the alleged child victim, if applicable.

(10) Assess if appropriate counseling services have been made available to the parent, guardian, or custodian.

(11) Refer the parent, guardian, or custodian to appropriate counseling services, if applicable.

(12) Determine if the parent, guardian, or custodian was provided information to facilitate access to available services for disabled persons and family members.

(13) Assist the parent, guardian, or custodian in accessing needed services, if applicable.

(14) Determine if the parent, guardian, or custodian participated in the hospital review process.

(15) Determine if the parent, guardian, or custodian was provided with or has access to the results of the hospital review process.

(H) If the attempted face-to-face contact with the disabled infant's parent, guardian, or custodian as specified in paragraph (G) of this rule is unsuccessful, the PCSA shall continue making attempts of face-to-face contact at least every five working days until face-to-face contact occurs or until the PCSA is required to make a report disposition pursuant to paragraph (O) of this rule.

(I) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code within four working days from the date the report was screened in.

(J) The PCSA shall document in the case record the date and time of the contact, or attempted contacts.

(K) The PCSA shall, in cooperation with the medical consultant, conduct and document interviews with the attending physician and health care facility staff. The purpose of the interviews is to:

(1) Determine the measures that the health care facility staff attending to the disabled infant has taken to provide medically indicated treatment to the disabled infant.

(2) Determine whether or not the disabled infant's attending physician, with the consent of the disabled infant's parent, guardian or custodian will sustain needed life-supporting care for twenty-four hours while the PCSA continues the assessment/investigation.

(3) Determine if any of the following conditions of and risk to the disabled infant were concluded by the attending physician's and/or staff's assessment:

(a) The disabled infant is chronically and irreversibly comatose.

(b) The provision of medical treatment will merely prolong dying, not be effective in ameliorating or correcting all of the disabled infant's life-threatening conditions, or otherwise be futile in terms of the survival of the disabled infant.

(c) The provision of medical treatment will be virtually futile in terms of the survival of the disabled infant and the treatment itself under such circumstances will be inhumane.

(4) Verify if plans have been made to convene a meeting of the health care facility review committee or to adopt the recommendations of the appropriate health care facility review committee, and the meeting has been held.

(5) Confirm the disabled infant's age.

(6) Confirm the disabled infant's diagnoses or diagnosis.

(7) Determine if the disabled infant's life is endangered.

(8) Determine if the withholding of life-sustaining treatment is recommended.

(9) Determine if the withholding of life-sustaining treatment is implemented.

(a) Identify the treatment necessary for the disabled infant's life or health being denied.

(b) Determine if sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.

(10) Determine if the parent, guardian, or custodian refused to consent to life-sustaining treatment.

(11) Determine if the hospital will sustain life-supporting care for the immediate future while the PCSA's assessment/investigation is conducted, if applicable.

(12) Identify the treatment or sustenance being provided to the disabled infant, if applicable.

(13) Determine if there is consensus regarding the medical diagnoses among the treatment team.

(14) Document and identify if there were/have been any differing opinions among the treatment team.

(15) Document the names of all medical consultants involved including their qualifications/credentials.

(16) Determine which members of the treatment team discussed the case with the parent, guardian, or custodian.

(17) Determine if a hospital review process occurred.

(a) If applicable, document the review process.

(b) If applicable, document the recommendations.

(L) The PCSA shall conduct and document all face-to-face interviews with the alleged perpetrator, unless law enforcement or the county prosecutor or medical consultant will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to assess his or her knowledge of the allegation.

(M) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(N) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the privacy of the principals of the report.

(O) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(P) The PCSA shall not waive the completion of the report disposition.

(Q) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a

principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(R) Within two working days of completion of the assessment/investigation, the PCSA shall notify the alleged perpetrator in writing of the report disposition and the right to appeal the disposition pursuant to rule 5101:2-33-20 of the Administrative Code.

(S) Within two working days from the date of the completion of the report disposition, the PCSA shall notify the disabled infant's parent(s) in writing of the report disposition and case decision.

(T) No later than three working days from the date of the completion of the report disposition, the PCSA shall provide written notification of the report disposition to the following entities, as applicable, in accordance with rules 5101:2-33-21 and 5101:2-36-12 of the Administrative Code.

(1) Administrator, director, or other chief administrator of the health care facility.

(2) The owner or governing board of the health care facility.

(3) The appropriate licensing and supervising authorities of the health care facility.

(U) The PCSA shall notify law enforcement if it is determined that the attending physician failed to provide medically indicated treatment or failed to inform the disabled infant's parent, guardian, or custodian of the available treatment options.

(V) The PCSA shall maintain all materials obtained as a result of the assessment/investigation in the case record.

Effective: 03/01/2014
R.C. 119.032 review dates: 11/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 4/1/86 (Emer.), 6/19/86 (Emer.), 8/1/86, 1/1/89, 10/1/95, 1/1/00, 4/1/01, 3/01/06, 10/01/09

5101:2-36-08 PCSA requirements for involving a third party in the assessment/investigation of a child abuse or neglect report.

(A) The public children services agency (PCSA) shall adhere to this rule for reports of child abuse or neglect where there is a potential conflict of interest because one or more of the following parties is a principal of the report:

(1) Any employee of an institution or facility that is licensed or certified by the Ohio department of job and family services (ODJFS) or another state agency and supervised by the PCSA.

(2) A foster caregiver, pre-finalized adoptive parent, adoptive parent, relative, or kinship caregiver who is recommended, approved, or supervised by the PCSA.

(3) A type B family day care home certified or licensed by a county department of job and family services (CDJFS) that has assumed the powers and duties of the county children services function

defined in Chapter 5153. of the Revised Code.

(4) Any employee, or agent of ODJFS or the PCSA as defined in Chapter 5153. of the Revised Code.

(5) Any authorized person representing ODJFS or the PCSA who provides services for payment or as a volunteer.

(6) A foster caregiver or an employee of an institution or facility licensed or certified by ODJFS and the alleged child victim is in the custody of, or receiving services from, the PCSA that accepted the report.

(7) Any time a PCSA determines that a conflict of interest exists. The PCSA shall document in the case record if a conflict of interest is identified.

(B) The involvement of a third party does not relieve the lead PCSA of its responsibility to ensure assessment/investigation activities are completed.

(C) A law enforcement agency or another PCSA may serve as the third party to an assessment/investigation of child abuse or neglect.

(1) The PCSA shall request the assistance of law enforcement as the third party if the child abuse or neglect report alleges a criminal offense.

(2) The PCSA may request the assistance of another PCSA as the third party if the child abuse or neglect report does not allege a criminal offense and both agencies agree to participate in the assessment/investigation including the delegation of investigatory responsibilities.

(D) In lieu of law enforcement or another PCSA, the PCSA may operate an in-house unit to assess/investigate reports of child abuse and neglect requiring a third party if all of the following apply:

(1) An agency employee is not named as a principal in the report.

(2) The report does not allege a criminal offense.

(3) The PCSA maintains written internal policies and procedures for the review and approval of assessments/investigations conducted by the in-house unit.

(4) The in-house unit works independently of all other units within the PCSA.

(E) Within twenty-four hours of the identification of a conflict of interest, the PCSA shall request and document the assistance of a third party .

(F) Upon acceptance of the request from the lead PCSA, the non-lead PCSA shall complete the assessment/investigation within the time frames established pursuant to rule 5101:2-36-03 or 5101:2-36-04 of the Administrative Code.

(G) In instances where law enforcement or another PCSA declines to assist the PCSA, the PCSA is responsible for conducting the assessment/investigation. The PCSA is responsible for having procedures in place to address the conflict of interest and ensure the completion of the assessment/investigation.

(H) The PCSA shall comply with all procedures pursuant to rule 5101:2-36-03 or 5101:2-36-04 of the Administrative Code.

(I) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation including the third party assessment/investigation report from law enforcement or the non-lead PCSA shall be maintained in the case record.

Five Year Review (FYR) Dates: 10/01/2015 and 10/01/2020
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/01/06, 10/01/09, 3/01/11, 3/1/14

5101:2-36-09 Requirements for dependent child assessments.

(A) A public children services agency (PCSA) shall conduct a dependency assessment in response to a dependency report if any of the following conditions apply to a child subject of the report absent allegations of abuse or neglect:

(1) The child subject of the report is homeless or destitute or without adequate parental care, through no fault of the child's parents, guardian, or custodian.

(2) The child subject of the report lacks adequate parental care as defined in section 2151.011 of the Revised Code.

(3) The child subject of the report's condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship.

(4) The child subject of the report is residing in a household where a parent, guardian, custodian, or other member of the household committed an act that was the basis for adjudication and a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

(B) The PCSA may request the assistance of law enforcement during an assessment if the following situations exist and the reason for contacting law enforcement is documented in the case record:

(1) The agency has reason to believe that the child is in immediate danger of serious harm.

(2) The agency has reason to believe that the worker is, or will be, in danger of harm.

(3) The agency has reason to believe that a crime is being committed, or has been committed against a child.

(4) The assistance of law enforcement needs to be invoked in accordance with the county child abuse and neglect memorandum of understanding.

(C) The PCSA shall initiate the screened in dependency report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the child subject of the report within one hour from the time the referral was screened in, to assess child safety and interview the child subject of the report.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral

source who has knowledge of the child subject of the report's current condition, and can provide current information about the child's safety.

(3) If face-to-face contact with the child subject of the report was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact with the child subject of the report shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the child subject of the report.

(D) The PCSA shall document in the case record the date, time, and with whom the assessment was initiated.

(E) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code..

(1) The PCSA shall attempt face-to-face contact with the child subject of the report and a parent, guardian, custodian, or caregiver within the first four working days from the date the report was screened in as a dependent report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the attempted face-to-face contacts with the child subject of the report as specified in paragraphs (C) and (E) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to complete a final case decision pursuant to paragraph (S) or (T) of this rule.

(G) The PCSA shall not interview the child subject of the report or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from their home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged dependency in his/her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(H) If a child subject of the report provides information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the child subject of the report, the interview of the sibling who was not identified as a child subject of the report may occur.

(I) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete a telephone contact with the child's, guardian, or custodian to inform them that an interview of their child occurred. If unsuccessful, an attempt to complete face-to-face contact shall occur once every five working days until contact is made with the child's parent, guardian,

or custodian or the time frame for completion of the assessment expires.

(J) The specific facts necessitating the assessment interviews of a child be conducted without parental consent must be documented in the case record.

(K) The PCSA shall conduct and document face-to-face interviews with each child residing within the home of the child subject of the report. If possible, each child should be interviewed separate and apart from the caretaker. The purpose of the interviews is to:

(1) Evaluate each child's condition.

(2) Determine if the child is safe.

(3) Obtain each child's understanding of the concerns contained in the report.

(L) The PCSA need not interview a child if it is determined that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child . For required non-lead interviews, this determination shall be made by the lead PCSA pursuant to paragraph (X) or (Y)of this rule.

(M) The PCSA shall conduct and document face-to-face interviews with the child's parent, guardian, or custodian and all adults residing in the home of the child in order to:

(1) Assess their knowledge of the situation.

(2) Observe the interaction between the child and caretaker.

(3) Obtain relevant information regarding the safety and risk to the child.

(N) At the time of the initial contact with the adult subject(s) of the report, the PCSA shall advise the adult subject(s) of the report of the specific concerns. The initial contact between the caseworker assessing a dependent child report and the adult subject(s) of the report of the report includes, whichever occurs first, face-to-face or telephone contact with the person if information is gathered as part of the assessment process.

(O) The PCSA shall conduct and document face-to-face interviews or telephone interviews with anyone identified as possible sources of information during the assessment to obtain relevant information regarding the safety and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(P) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(2) Attempt to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(3) Attempt to secure any relevant records, including but not limited to school, mental health, and medical records.

(Q) At any time the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(R) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(S) The PCSA shall arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the report was screened in. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(T) If the dependency report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the final case decision by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

(1) The JFS 01402 shall be completed no later than forty-five days from the date the report was screened in.

(2) The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(U) The PCSA shall not waive the completion of the final case decision.

(V) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the child or any records required to conduct the assessment.

(W) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a member of the case has any impairment that creates a barrier to communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(X) Within two working days of completion of the assessment, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the final case decision.

(2) Notify the caretaker in writing of the final case decision.

(3) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(4) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains

an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report and the final case decision.

(5) Document in the case record, the date and method of notification to the principals of the report of the above listed activities completed.

(Y) If two or more Ohio PCSAs are involved in an assessment, the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, or legal custodian of the child subject of the report resides.

(3) If an order of shared parenting has been issued, and there has been no residential parent designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the child subject of the report at the time the incident occurred.

(Z) If a report of dependency involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment if a determination was made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment if a determination cannot be made immediately if an agreement is in effect.

(AA) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, JFS 01402, and the JFS 01400 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(BB) The assessment documentation and any materials obtained as a result of the assessment shall be maintained in the case record. If any information gathering activity cannot be completed, justification and written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 5153.16
Rule Amplifies: 5153.16

Prior Effective Dates: 3/1/2006, 10/01/09 , 3/01/12

5101:2-36-10 PCSA requirements for responding to family in need of services reports.

(A) A public children services agency (PCSA) shall provide services to a child and family for the following screened in "Family In Need of Services" reports:

(1) "Adoption Subsidy" report.

(2) "Child Fatality, Non-Child Abuse/Neglect" report.

(3) "Courtesy Supervision" report.

(4) "Deserted Child" report.

(5) "Emancipated Youth" report.

(6) "Home Evaluation/Visitation Assessment" report.

(7) "Permanent Surrender" report.

(8) "Post Finalization Adoption Services" report.

(9) " Pre-placement or Postnatal Services for the Placement of an Infant of an Incarcerated Mother" report.

(10) "Preventive Services" report.

(11) "Required Non-lead PCSA Interview" report.

(12) "Stranger Danger Investigation."

(13) "Unruly/Delinquent" report.

(14) "Interstate Compact for the Placement of Children" (ICPC) report.

(15) "Alternative Response Required Non-lead PCSA Contacts" report.

(B) The PCSA shall follow the procedures and provide the services identified for each family in need of services subcategory as follows:

(1) Adoption subsidy only report, pursuant to Chapters 5101:2-44 and 5101:2-49 of the Administrative Code.

(2) Child fatality, non-child abuse/neglect report, pursuant to rule 5101:2-42-89 of the Administrative Code.

(3) Courtesy supervision report, to support the provision of services and activities described in sections 3113.31, 2151.271, 2151.151, 2151.353, 5103.20 and 2151.56 of the Revised Code.

(4) Deserted child report, as specified in rules 5101:2-36-06 and 5101:2-42-04 of the Administrative Code.

(5) Emancipated youth report, pursuant to rule 5101:2-42-19.2 of the Administrative Code.

(6) Home evaluation/visitation assessment report, as described in rule 5101:2-42-18 of the Administrative Code or as defined in rule 5101:2-1-01 of the Administrative Code.

(7) Permanent surrender report, pursuant to rule 5101:2-42-09 of the Administrative Code.

(8) Post finalization adoption services report, as defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall provide or arrange services to support, maintain, and assist an adopted child, adoptive family, or birth parent anytime after finalization of an adoption.

(9) Postnatal placement services to an infant of an incarcerated mother report, pursuant to rule 5101:2-42-60 of the Administrative Code.

(10) Preventive services report, as defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall provide services aimed at preventing child abuse and neglect which have been requested by the parent, guardian, or custodian for the family if there are no current allegations of child abuse, neglect, or dependency.

(11) Required non-lead PCSA interview report, pursuant to rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-09 of the Administrative Code.

(12) Stranger danger investigation, pursuant to rule 5101:2-36-05 of the Administrative Code.

(13) Unruly/delinquent report, as defined in section 2151.022 of the Revised Code or defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall complete an assessment to identify the need for services designed to promote child safety, permanency, and well-being for a child determined to be unruly or delinquent.

(14) ICPC report, pursuant to rule 5101:2-52-04 of the Administrative Code.

(15) Alternative response required non-lead PCSA contacts report, pursuant to rule 5101:2-36-20 of the Administrative Code.

(C) Completion of the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) is required for family in need of services, stranger danger investigations.

(D) Except as provided in paragraph (E) of this rule, completion of the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) is required for all family in need of services reports transferred for ongoing PCSA services prior to the completion of the case plan pursuant to rule 5101:2-38-01 or 5101:2-38-05 of the Administrative Code.

(E) The following family in need of services report subcategories do not require the completion of a JFS 01400 prior to the completion of the case plan:

(1) Deserted child.

(2) Emancipated youth.

(3) Permanent surrender.

(4) ICPC.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 5153.16
Rule Amplifies: 5153.16
Prior Effective Dates: 3/1/06, 10/01/09, 3/01/12

5101:2-36-11 Extending time frames for completion or waiving completion of assessment/investigation activities.

(A) The public children services agency (PCSA) shall request an extension if the PCSA is unable to complete specific assessment/investigative activities pursuant to the time frames established within Chapters 5101:2-36 and 5101:2-37 of the Administrative Code. The justification for extension shall:

(1) Contain written justification for not meeting the established time frame.

(2) Contain supervisory approval of the written justification prior to the expiration of the established time frame.

(3) Be maintained in the case record.

(B) An extension is permitted for the following assessment/investigative activities:

(1) Completion of the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006). The time frame may be extended until face-to-face contact with each required participant is completed or until the PCSA is required to make a report disposition or final case decision.

(2) Execution of the second attempt to complete face-to-face contact and the JFS 01401 within four working days from the screening decision when all of the following have been recorded in the extension justification prior to the expiration of the fourth working day:

(a) The diligent efforts completed to identify the child's current safety status with a principal of the report or collateral source who has knowledge of the child's current condition, and can provide current and credible information about the child's safety.

(b) The name and location of the individual who provided the credible information about the child's safety, and the manner in which the information was obtained.

(c) The information provided by the principal of the report or collateral source that supports the PCSA's belief that the child is not at risk of being seriously harmed.

(d) Completion of the supervisory approval of the extension request in SACWIS prior to the expiration of the fourth working day.

(3) Obtaining the signature of the parent, guardian, or custodian, or person(s) responsible for an action step on the JFS 01409 "Comprehensive Assessment Planning Model - I.S., Safety Plan for Children" (rev. 2/2006) within twenty-four hours from receipt of the verbal authorization. The time frame of the extension shall not exceed five working days.

(C) A fifteen day extension is permitted to complete the JFS 01400 "Comprehensive Assessment

Planning Model - I.S., Family Assessment" (rev. 7 /2006), JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006), JFS 01403 "Comprehensive Assessment Planning Model - I.S., Specialized Assessment/Investigation" (rev. 2/2006), JFS 01419 "Comprehensive Assessment Planning Model - I.S., Alternative Response Family Assessment" (rev. 7 /2008), JFS 01423 "Comprehensive Assessment Planning Model - I.S., Alternative Response Ongoing Case Assessment " (rev. 7/2008) or to reach a case disposition or case decision if diligent efforts to complete the necessary activities have been unsuccessful and one of the following applies:

(1) A principal of the report has not been interviewed.

(2) The PCSA is waiting on documentation/information from another entity that is necessary in determining the disposition or case decision.

(3) Interviews with collaterals or witnesses who have specific information about the allegations have not been completed.

(4) The case is assigned to the alternative response pathway and additional time is needed to complete the linkage to services prior to case closure.

(D) An extension is permitted to notify the alleged perpetrator in writing of the report disposition if the alleged perpetrator is the subject of a law enforcement investigation into human trafficking. The timeframe for the extension shall not exceed one hundred twenty days from the date the PCSA screened in the referral as a child abuse and/or neglect report.

(E) The PCSA shall complete a request to waive an assessment/investigation activity pursuant to the requirements established within Chapters 5101:2-36 and 5101:2-37 of the Administrative Code if the PCSA is unable to complete specific assessment/investigative activities. The request shall:

(1) Contain written justification of why each assessment/investigation activity can not be completed.

(2) Contain the director's or designee's approval of the written request prior to the termination of the established time frame, or extended time frame, for the assessment/investigation activity.

(3) Be maintained in the case record.

(F) A PCSA may request to waive the following assessment/investigation activities:

(1) Completion of the face-to-face interview with the alleged child victim or child subject of the report.

(2) Completion of the face-to-face interview with each child in the home of the alleged child victim or child subject of the report.

(3) Completion of the face-to-face interview with each adult residing in the home of the alleged child victim or child subject of the report, including the parent(s), guardian, or custodian.

(4) Completion of the face-to-face interview with the alleged perpetrator or adult subject of the report.

(5) Completion of face-to-face or telephone interviews with any identified witnesses and collateral sources.

(6) Completion of the JFS 01400, the JFS 01401, JFS 01402, or JFS 01403 if the report disposition is one of the following:

(a) Family moved: unable to complete assessment/investigation.

(b) Unable to locate.

(7) Completion of the JFS 01401, JFS 01419 or the JFS 01423 if the PCSA has not completed contact with any principal of the report and has been unable to locate the family.

(8) Completion of the JFS 01400, JFS 01401, JFS 01402, or JFS 01403 if all of the following apply:

(a) The PCSA has not successfully gathered sufficient information from any principal of the report, identified witness, or collaterals in order to complete the JFS 01400, JFS 01401, JFS 01402, or JFS 01403.

(b) The parent, guardian, or custodian of the alleged child victim refused the PCSA to have contact with family members, including principals of the report, to complete the required assessment activities.

(c) The PCSA consulted legal counsel regarding the report and the family's refusal to engage in the assessment/investigation process.

(d) The PCSA's legal counsel advised the PCSA no legal action will be pursued.

(e) The PCSA report disposition is unsubstantiated, substantiated, or indicated.

(9) The signature of a parent, guardian, or custodian on the JFS 01409 if all of the following apply:

(a) The PCSA has obtained one signature from a parent, guardian, or custodian on the JFS 01409.

(b) The PCSA determines the parent, guardian, or custodian who has not signed is unable or unavailable to sign the JFS 01409.

(c) The reason(s) why the parent, guardian, or custodian who has not signed is unable or unavailable to sign the JFS 01409 is documented in the case record.

(10) Completion of the JFS 01400, JFS 01401, JFS 01402, JFS 01403, JFS 01419, or JFS 01423 if, upon initiation, the PCSA determines the specific incident alleged in the report has been previously assessed/investigated and all of the following apply:

(a) The report involves the same alleged child victim or child subject of the previous report.

(b) The report involves the same alleged perpetrator or adult subject of the previous report.

(c) The previous report received an alternative response case decision or report disposition of substantiated, indicated or unsubstantiated.

(G) The PCSA shall not complete a justification to waive or extend the completion time frame for any assessment/investigation activity not identified within this rule.

Effective: 7/23/2015
Five Year Review (FYR) Dates: 04/29/2015 and 07/01/2020

Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97, 4/1/01, 12/1/01, 6/25/04, 3/01/06, 10/01/09, 3/01/14

5101:2-36-12 PCSA requirement for cross-referring reports of child abuse and/or neglect.

(A) The provisions of rule 5101:2-33-21 of the Administrative Code regarding confidentiality apply to all cross-referrals of child abuse and/or neglect required by this rule.

(B) The public children services agency (PCSA) shall make a cross referral to law enforcement if the report alleges a criminal offense.

(C) The PCSA shall cross refer reports of child abuse and or neglect in accordance with the PCSA's county child abuse and neglect memorandum of understanding, and if applicable, the interagency agreement with a child advocacy center pursuant to section 2151.428 of the Revised Code.

(D) The PCSA shall contact the following licensing and supervising authorities, as applicable, no later than the next working day from the date the referral was screened in to share information pursuant to rules 5101:2-33-21 and 5101:2-36-04 of the Administrative Code:

(1) The Ohio department of developmental disabilities (ODDD) division of developmental centers quality assurance if the report involves a developmental center managed by ODDD; or the office of licensure if the report involves a foster or group home licensed by ODDD.

(2) The local county board of developmental disabilities (DD) if the report involves any program managed by the county board of DD.

(3) The local board of alcohol, drug addiction, and mental health and the Ohio department of mental health (ODMH) if the report involves a residential care facility licensed by ODMH.

(4) The Ohio department of youth services' (ODYS) chief inspector if the report involves an institution or facility for delinquent children managed by ODYS; or the juvenile judge and ODYS' division of parole, courts, and community services if the report involves a detention or rehabilitation facility managed by a juvenile court and approved by ODYS.

(5) The superintendent of the local schools or the Ohio department of education's (ODE) legal counsel if the report involves the school for the deaf or blind or early education programs managed by ODE .

(6) The Ohio department of job and family services (ODJFS), children services licensing, if the report involves a foster home, group home or children's residential facility licensed by ODJFS.

(7) The ODJFS, child care licensing, if the report involves a child care center (more than twelve children) or a type A family child care home which is or should be licensed by ODJFS.

(8) The local county department of job and family services (CDJFS) if the report involves an in-home aide who is certified by the CDJFS or a type B family child care certified or licensed by the CDJFS.

Effective: 03/01/2014

R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/1/06, 10/01/09, 3/01/12

5101:2-36-13 Intrastate and interstate referral procedures for children's protective services.

(A) A public children services agency (PCSA) shall complete an intrastate referral to another PCSA if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside or have moved to another county before an assessment/investigation has been initiated.

(1) If an emergency exists, the PCSA shall immediately telephone the appropriate PCSA and provide the referral information.

(2) If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours.

(3) The referral information provided to the PCSA shall include, but is not limited to, the following:

(a) The case identification number established within the statewide automated child welfare information system (SACWIS).

(b) The case reference person established within SACWIS.

(c) The intake identification number established within SACWIS, as applicable.

(d) Location, including the address, of the child and his or her custodial parent, legal guardian, or legal custodian.

(B) A PCSA shall complete an intrastate referral to another PCSA if the PCSA initiates an abuse or neglect report and determines the alleged child victim and his or her custodial parent, legal guardian, or legal custodian reside in another county.

(1) The PCSA shall immediately telephone the appropriate PCSA if an emergency exists to inform of the report and the information obtained as a result of the initiation or other contacts. If no emergency exists, the PCSA shall telephone the appropriate PCSA within twenty-four hours.

(2) The PCSA receiving the intrastate referral shall determine one of the following:

(a) A case transfer shall be accepted regarding the current report. The receiving PCSA becomes the lead agency and is responsible for the completion of the assessment/investigation activities including arriving at a report disposition and case decision.

(b) A case transfer shall not be accepted. The PCSA that initiated the report shall remain the lead agency and retain responsibility for the completion of the assessment/investigation, including completing requests for required non-lead interviews.

(C) A PCSA shall make an intrastate referral to another PCSA if the PCSA determines that protective services are needed but the child and his or her custodial parent, legal guardian, or legal custodian moves to another county before or during the provision of protective services and the child remains at risk of abuse or neglect.

(D) A PCSA shall make an interstate referral to a children's services agency (CSA) if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside in or have moved to another state. The PCSA shall comply with the following procedures if making a referral to a CSA:

(1) If an emergency exists, the PCSA shall immediately telephone the appropriate CSA with the referral information. Within three working days of the date of the telephone referral, the PCSA shall follow-up with a written referral to the CSA.

(2) If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours. Within three working days of the date of the telephone referral, the PCSA shall follow-up the telephone referral with a written referral to the CSA.

(3) The referral shall include, but is not limited to, the following:

(a) All available identifying information on the child, his or her parent, guardian, or custodian and other involved people, including names, dates of birth, ages, and social security numbers.

(b) The child, his or her parent, guardian, or custodian and other involved persons' relationships to each other.

(c) Location, including address of the child and his or her parent, guardian or custodian.

(d) Summary of the referring PCSA's involvement with the child, his or her parent, guardian, or custodian and the current case status.

(e) A copy of the completed JFS 01401 "Comprehensive Assessment Planning Model - I..S., Safety Assessment" (rev. 2/2006) and the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006), or JFS 01419 "Alternative Response Family Assessment" (rev. 7/2008) if applicable.

(f) The nature of the request for the provision of protective services.

(g) The referring PCSA contact person.

(h) The information the referring PCSA needs in response to the referral.

(4) Confidential information regarding the child, his or her parent, guardian, or custodian may be released to CSA pursuant to rule 5101:2-33-21 of the Administrative Code.

(5) The PCSA shall cooperate with the CSA, and if necessary, lead the assessment/investigative efforts if the child is located within Ohio and the abuse or neglect is alleged to have occurred within Ohio.

Effective: 03/01/2014
R.C. 119.032 review dates: 11/01/2016
Promulgated Under: 119.03

Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 1/1/87, 1/1/88, 4/1/01, 3/01/06, 10/01/09

5101:2-36-14 Protective service alert.

(A) A public children services agency (PCSA) shall issue a protective service alert (PSA) if either of the following occurs:

(1) The PCSA receives an abuse or neglect report, the whereabouts of a child or his or her parent, guardian, or custodian are unknown, and the PCSA has reason to believe the child is in immediate danger of serious harm.

(2) The PCSA determines that protective services are needed, the whereabouts of the child or his or her parent, guardian, or custodian are unknown and the PCSA has reason to believe the child remains at risk of abuse or neglect.

(B) The PCSA shall create a PSA in the statewide automated child welfare information system (SACWIS) and specify whether the PSA is to be processed as an in-state or out of state alert.

(C) Upon creation of a PSA, the PCSA issuing the PSA shall be referenced as the originating PCSA.

(D) A non-originating PCSA shall notify the originating PCSA no later than the next working day if a person(s) with an active PSA has been located and document the notification in the case record.

(E) Upon receipt of the notification that a person has been located, the originating PCSA shall cancel the PSA.

(F) A PSA will expire in ninety days from the issue date.

(G) The originating PCSA shall complete a PSA extension prior to the expiration of the PSA if the PCSA determines the child remains in immediate danger of serious harm . Each PSA extension will expire ninety days from the issue date.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 1/1/87, 12/17/94, 4/1/01, 3/01/06, 10/01/09

5101:2-36-20 Public children services agencies assessment requirements for child abuse and neglect reports in alternative response.

(A) This rule applies to public children services agencies (PCSAs) that received training and written approval from the Ohio department of job and family services (ODJFS) to implement alternative response.

(B) The PCSA shall initiate the screened in child abuse and neglect report assigned to the alternative response pathway in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the child subject of the report within one hour from the time the referral was screened in as a report in order to assess child safety.

(2) For all other reports, complete one of the following activities, within twenty-four hours from the time the referral was screened in as a report, with a principal of the report or collateral source, who has knowledge of the child's current condition and can provide current information about the child's safety:

(a) Attempt a face-to-face contact with the parent, child or collateral source.

(b) Attempt a telephone contact with the parent or collateral source.

(c) Send a letter to the parent, guardian, or custodian acknowledging a report was received and inviting the family to engage with the PCSA.

(C) The PCSA shall advise the parent, guardian, or custodian of the information contained in the report at the time of the initial contact. The initial contact between the PCSA and the parent, guardian, or custodian includes face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment process.

(D) The PCSA shall document in the case record the date, time, and with whom the assessment was initiated. For all reports initiated by the mailing of a letter, the date the letter is mailed shall be documented in the case record.

(E) The PCSA shall complete and document the JFS 01401, "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code.

(1) The PCSA shall attempt face-to-face contact with the child subject of the report and a parent,guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the initial attempted face-to-face contacts with the child subject of the report and caretaker, as specified in paragraphs (B) and (E) of this rule are unsuccessful, the PCSA shall at a minimum continue making attempts of face-to-face contact at least every five working days until the child subject of the report and caretaker are seen or until the PCSA is required to complete a case decision pursuant to paragraph (T) or (U) of this rule.

(G) The PCSA shall not contact a child subject of the report or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be contacted at school or another location due to one of the circumstances listed above.

(H) If a child is contacted without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete telephone contact with the child's parent, guardian, or custodian to inform them that contact with his or her child occurred and provide the specific facts necessitating the child be contacted without parental consent.

(I) The specific facts necessitating contact with the child be completed without parental consent shall be documented in the case record.

(J) If the attempt to contact the child's custodian pursuant to paragraph (H) of this rule is unsuccessful, the PCSA shall continue to attempt to complete face-to-face contact with the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA is required to make a case decision pursuant to paragraph (T) or (U) of this rule.

(K) The PCSA shall complete and document face-to-face contacts with each child residing within the home of the child(ren) who were the subject of the report.

(L) The PCSA shall complete and document face-to-face contacts with all adults residing within the home of the child(ren) who were the subject of the report.

(M) If the attempted face-to-face contacts with the family, as specified in paragraphs (K) and (L) of this rule are unsuccessful, the PCSA shall continue making attempts of face-to-face contact at least every five working days, at a minimum, until the child is seen or until the PCSA is required to complete a case decision pursuant to paragraph (T) of this rule.

(N) The PCSA shall convert a case from the alternative response pathway to the traditional response pathway if any of the following occur:

(1) The family requests a pathway change from the alternative response pathway to the traditional response pathway.

(2) The JFS 01401, JFS 01419 "Comprehensive Assessment Planning Model - I.S., Alternative Response Family Assessment" (rev. 7/2008), or JFS 01423 "Comprehensive Assessment Planning Model - I.S., Alternative Response Ongoing Case Assessment" (rev. 7/2008) cannot be completed because the family refused to engage in the assessment process .

(3) The PCSA files a complaint with the juvenile court pursuant to section 2151.27 of the Revised Code alleging the child is abused, neglected or dependent child.

(4) The PCSA screens in a report requiring assignment in a traditional response pathway pursuant to paragraph (I) of rule 5101:2-36-01 of the Administrative Code.

(O) The PCSA shall record a pathway switch in SACWIS no later than the next working day from the date of the event triggering the conversion of a case from the alternative response pathway to the traditional response pathway.

(P) The PCSA shall notify the principals of the report of the pathway change either verbally or in writing

within three working days upon the conversion of a case from the alternative response pathway to the traditional response pathway if the pathway switch is not the result of a subsequent report received and assigned to the traditional response pathway. the notification(s) shall be documented.

(Q) If the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(R) The PCSA shall conduct and document face-to face or telephone contact with any person identified as a possible source of information during the assessment to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(S) If two or more PCSAs are involved in an assessment, the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where the parent, guardian, custodian of the child subject of the report resides.

(2) If an order of shared parenting has been issued, and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the child subject of the report at the time the incident occurred.

(T) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, 01419, and/or 01423 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(U) The PCSA shall have an interpreter present for all interviews when the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(V) The PCSA shall make a case decision by completing the JFS 01419 pursuant to rule 5101:2-37-03 of the Administrative Code no later than forty-five days from the date the PCSA screened in the referral as a report.

(1) The PCSA may extend the time frame for completion of the JFS 01419 pursuant to rule 5101:2-36-11 of the Administrative Code with written justification and supervisory approval. The time frame for extension shall not exceed fifteen days.

(2) The JFS 01419 shall be entered in SACWIS within three working days from the date of the case decision.

(W) If the child abuse and/or neglect report involves a family member receiving services after the completion of the JFS 01419, the PCSA shall make the final case decision by completing the JFS 01423 pursuant to rule 5101:2-37-03 of the Administrative Code.

(X) If the case decision is to transfer the case for ongoing PCSA services, and the case will continue to be assigned to the alternative response pathway, the agency shall provide ongoing services to the family pursuant to rule 5101:2-38-20 of the Administrative Code.

(Y) Within two working days of completion of the assessment, the PCSA shall do all of the following:

(1) Notify the parent, guardian, or custodian of the final case decision in writing.

(2) Refer to "Help Me Grow" any infant born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(3) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, and the case decision.

(Z) Documentation of the alternative response assessment, including any materials obtained during the assessment, shall be maintained in the case record.

(AA) The PCSA may extend time frames for completion or waive assessment activities pursuant to rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 5153.166, 2151.429
Rule Amplifies: 2151.429, 5153.16
Prior Effective Dates: 07/01/11

5101:2-44-05.2 Covered families and children (CFC) medicaid eligibility for state adoption subsidy recipient moving from or to Ohio.

(A) Residence in Ohio is a requirement for covered families and children (CFC) medicaid as outlined in paragraph (C)(2) of rule 5160:1-2-01.8 of the Administrative Code. An adoptive child with special needs who is in receipt of an Ohio-executed state adoption subsidy and who does not live in Ohio is not eligible for Ohio CFC medicaid even if the subsidy payment continues.

(B) An adoptive child described in paragraph (A) of this rule may be eligible for medicaid in the new residence state, as outlined in paragraph (C)(2) of rule 5160:1-2-01.8 of the Administrative Code, if one of the following applies:

(1) The new residence state has elected, in its state medicaid plan, the state option for its state adoption subsidy children.

(2) The new residence state and the Ohio department of job and family services (ODJFS) are parties to an interstate agreement for reciprocal medicaid coverage of state adoption subsidy children.

(3) The new residence state elects in its state medicaid plan to reciprocate with all states for medicaid coverage of state adoption subsidy children, whether or not the states are parties to an interstate agreement.

(C) If a child moves from Ohio into a new residence state, the Ohio public children services agency (PCSA) which entered into the JFS 01615 "State Adoption Maintenance Subsidy Agreement" (rev. 4/2014) shall:

(1) Within seven business days after notification of the child's relocation or intent to relocate to another state, complete and forward the original interstate compact on adoption and medical assistance (ICAMA) form 6.01 "Notice of Medicaid Eligibility/Case Activation," appendix A to this rule, ICAMA form 7.02 "Notice to Families," appendix B and 7.02 b "Important Information for Families," appendix D to this rule, and a copy of the current signed and dated JFS 01615 to the ODJFS ICAMA state administrator.

(2) Upon notification of an additional change in the child's or family's status, the PCSA shall, within seven business days, complete and forward the ICAMA form 6.03 "Report of Change in Child/Family Status," appendix C to this rule, to the ODJFS ICAMA state administrator.

(3) Annually, the PCSA shall provide the ODJFS ICAMA state administrator with evidence that the JFS 01615 is still in effect, has been renewed, or has been modified.

(D) If an adoptive child moves from Ohio to another state:

(1) The adoptive parent shall inform the PCSA of the family's address and telephone number within ten days of relocation.

(2) The PCSA that supervises the original JFS 01615 shall notify the adoptive parent that Ohio medicaid coverage will be terminated.

(3) The PCSA shall notify the county department of job and family services (CDJFS) that the Ohio medicaid case shall be closed.

(E) An adoptive child with special needs who is a resident of Ohio and in receipt of a state adoption subsidy agreement from another state is eligible to receive Ohio CFC medicaid, as outlined in paragraph (C)(2) of rule 5160:1-2-01.8 of the Administrative Code, if:

(1) The state which entered into the state adoption subsidy agreement has been identified as a member of ICAMA.

(2) The state is not identified as a member of ICAMA but has elected in its state medicaid plan to provide medicaid coverage for its own state adoption subsidy children.

(3) The state which entered into the state adoption subsidy agreement and ODJFS are parties to an interstate agreement for reciprocal medicaid coverage of state adoption subsidy children.

(F) If an adoptive child moves from another state to Ohio and has a state adoption subsidy agreement in effect with another state, the CDJFS shall:

(1) Upon receipt of the ICAMA form 6.01, the state adoption subsidy agreement, and a completed JFS 07216 "Combined Programs Application" (rev. 11/2013) from the adoptive parent(s), determine the child's eligibility for CFC medicaid as outlined in paragraph (C)(2) of rule 5160:1-2-01.8 of the Administrative Code.

(2) After determination of medicaid eligibility, complete and forward to the ODJFS ICAMA state administrator the original ICAMA form 6.03.

(3) Upon notification of additional changes in the child's or family's status, the CDJFS shall, within seven business days, complete and forward the original form 6.03 to the ODJFS ICAMA state administrator.

(G) The CDJFS shall be responsible for administration of any ICAMA applications received or distributed at the county level.

(H) Copies of all ICAMA forms and correspondence shall be maintained in the child's state adoption subsidy case record.

(I) The adoptive parents, whether moving from or to Ohio, shall provide the residence state with any information regarding medical assistance or insurance available to the child.

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Effective: 06/12/2014
R.C. 119.032 review dates: 03/12/2014 and 06/01/2019

Promulgated Under: 119.03
Statutory Authority: 5153.163
Rule Amplifies: 5153.16 , 5153.163
Prior Effective Dates: 1/1/92 (Emer.), 3/20/92, 5/1/03, 7/1/04, 5/1/09

5101:2-44-13 Public children services agency (PCSA) administration of the post adoption special services subsidy (PASSS) program.

(A) The public children services agency (PCSA) is responsible for the administration and determination of eligibility for the post adoption special services subsidy (PASSS) program. The PCSA shall:

(1) Upon request, provide the following within five days to any adoptive parent who resides in Ohio:

(a) The JFS 01050 "Application for Post Adoption Special Services Subsidy" (rev. 7/2011).

(b) The JFS 01051 "Application for Additional Post Adoption Special Services Subsidy (PASSS) Funding for Extraordinary Circumstances" (rev. 7/2013).

(c) The JFS 01052 "Credentials for Providers of PASSS Funded Therapeutic Services and Memorandum of Understanding" (rev. 1/2014).

(d) The JFS 04059 "Explanation of State Hearing Procedures" (rev. 10/2008).

(e) The JFS 01681 "Applicant Financial Statement" (rev. 10/2000).

(2) Within fifteen days of the date stamped by the PCSA indicating receipt of the JFS 01050, JFS 01051, if applicable, and JFS 01052, return to an applicant any application that does not contain the required documentation as outlined in rule 5101:2-44-13.1 "Eligibility and application process for the post adoption special services subsidy" of the Administrative Code.

(3) Process all completed JFS 01050s.

(4) Retain all JFS 01052s, all approved and denied JFS 01050s and all JFS 01051s.

(B) Applicants seeking a post adoption special service subsidy shall:

(1) Complete each section of the JFS 01050 and JFS 01051, if applicable, and have the provider complete each section of the JFS 01052, in order for the application to be considered complete.

(2) Forward all documentation as outlined in rule 5101:2-44-13.1 of the Administrative Code to the PCSA in the county in which the applicant and child reside.

(C) The PCSA shall form a post adoption subsidy review committee composed of a minimum of three people: a representative of the PCSA administration, a representative of the PCSA adoption services section, and a person within the community who is knowledgeable about post adoption services. The PCSA shall ensure that people from outside the adoption services section adhere to all confidentiality procedures in accordance with section 5153.17 of the Revised Code.

(D) The committee shall review each completed JFS 01050, JFS 01051 and JFS 01052 and recommend the services and level of funding to be provided by the PASSS program to the PCSA executive director or designee.

(E) PASSS funds shall be used for the following:

(1) Family preservation services for a child residing in the home of the adoptive parent.

(2) Services that will reduce serious psychological risk for the child or serious physical risk for the child or others. Serious psychological or physical risk is defined as a progressive psychological or physical illness, injury, or impairment that will continue over an extended period of time and requires direct supervision by a qualified professional as outlined in rule 5101:2-44-13.1 of the Administrative Code. If such services are for a child not residing in the home, the requested services shall focus on specific reunification goals that enable the child to return home.

(3) Medical services designed to relieve or correct preadoptive health care problems.

(F) The committee shall base its approval of the PASSS application on:

(1) The review of supporting documentation as specified in rule 5101:2-44-l3.1 of the Administrative Code.

(2) Whether the application requirements of rule 5101:2-44-13.1 of the Administrative Code are met.

(3) A determination that the individual services requested by the family are appropriate.

(G) Within forty-five days of submission of the completed application, the PASSS review committee shall make its recommendations to the PCSA executive director or designee.

(H) If the PCSA executive director or designee determines that the review committee will be delayed in making its recommendations beyond the forty-five day deadline, the PCSA executive director, or designee, may substitute an alternative review process. This alternative review process shall be defined in the PCSA's adoption policy and shall set out the alternative procedure and explain when the alternative review process may be used.

(I) The PCSA executive director, or designee, shall determine, within five days of receiving the recommendation, whether to follow the recommendation of the PASSS review committee.

(J) If the PCSA executive director, or designee, does not follow any of the recommendations of the PASSS review committee, the PCSA executive director, or designee, shall describe, in writing, the reasons for not following the recommendation.

(K) The PCSA executive director, or designee, shall provide written notice on the JFS 04074 "Notice of Approval of Your Application for Assistance" (rev. 9/2011) or the JFS 07334 "Notice of Denial of Your Application for Assistance" (rev. 9/2011) to the applicant within three days of the decision to approve or deny the application.

(L) The written notice shall contain the following:

(1) The services and amount approved and the effective date of the approval.

(2) The reason for denial if funding is not approved and information regarding the applicant's right to a state hearing pursuant to section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

(M) The PCSA shall document the state hearing review process in the agency's adoption policy.

(N) The PCSA shall approve PASSS funding as long as state funds are available. In the event state funding is no longer available, the PASSS program will close to new applications until July first of the following state fiscal year (SFY). Once state funds have been exhausted, neither ODJFS nor the PCSA may be held responsible for payment of services for applications that have not been approved.

(O) The PCSA working with the adoptive family shall provide assistance to the adoptive parent(s) in exploring other sources of support and services for the child. PASSS is a funding source of last resort; therefore, to the extent that other funding sources are or become available, they shall be used in place of PASSS funds.

(P) PASSS funds shall not supplant medicaid funding if the child is eligible for coverage under the medicaid program.

(Q) The PCSA may consider approving services requested under the following conditions:

(1) The child is not eligible for medicaid.

(2) The service recommended by a qualified professional for the child's treatment is not a covered service under medicaid.

(3) The service requested by the family is not covered under the family's insurance.

(R) The amount funded shall not exceed the amount paid for the same service provided by a medicaid provider if the service is covered under medicaid pursuant to appendix DD to rule 5160-1-60 of the Administrative Code.

(S) If the service is not covered under medicaid, the amount funded shall be a reasonable amount and shall meet the guidelines of the qualified professional's licensing body standards. The licensing body is the entity that has provided the license for the individual to practice in their profession.

(T) All invoices submitted for reimbursement in SACWIS that comply with this rule will be paid by ODJFS if submitted by the PCSA no later than September thirtieth, after the close of the state fiscal year in which the applications were approved.

(U) The PCSA shall be reimbursed as follows:

(1) Up to ninety-five per cent of the total for each invoice received by the PCSA for applications that comply with this rule.

(2) Up to one hundred per cent of the total for each invoice received by the PCSA for applications that comply with this rule if the PCSA has waived the five per cent requirement pursuant to rule 5101:2-44-13.1 of the Administrative Code.

(V) If a state or federal audit determines that the PCSA has been reimbursed for services in which a JFS 01050 has not been submitted and/or approved by the PCSA, the PCSA shall reimburse ODJFS the amount of the adverse audit finding.

(W) Each approved PASSS application shall be reviewed by the PCSA within twenty days after the state fiscal quarter in which it was approved, and every subsequent quarter within the SFY, to determine if the funding is being utilized.

(X) The PCSA shall notify the family, within five days of completion of the review, of its intent to release these funds for that quarter unless the family provides adequate justification within twenty days of receipt of the notice as to why the funds were not used.

(Y) If the PCSA does not accept the justification offered by the family, the PCSA shall release the funds in question to ODJFS through SACWIS, and the family is responsible for the payment.

(Z) If the PCSA releases the funds, it shall provide the family information regarding the right to a state hearing pursuant to section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

Effective: 05/15/2014
R.C. 119.032 review dates: 01/23/2014 and 05/01/2019
Promulgated Under: 119.03
Statutory Authority: 5153.166
Rule Amplifies: 5153.163
Prior Effective Dates: 10/2/80, 7/1/90, 1/13/92 (Emer.), 9/21/92, 7/1/92, 9/18/96, 1/30/98, 3/6/00 (Emer.), 6/1/00, 7/1/01, 7/1/04, 7/1/08, 5/1/09, 12/1/11

Chapter 5101:2-36 Screening and Investigation

5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency and family in need of services reports; and information and/or referral intakes.

(A) A public children services agency (PCSA) shall attempt to obtain, at a minimum, the following information from a referent/reporter making a referral regarding child safety, risk of child maltreatment or need for services in order to determine an intake category and arrive at a screening decision. Receipt of all of the following information is not required in order to screen in a report or to categorize the information as information and/or referral:

(1) The name(s) and address(es) of the child and his parent, guardian or custodian and all household members.

(2) The child's age.

(3) The child's and any family member's race and ethnicity.

(4) The type, extent, frequency, and duration of the abuse, neglect or dependency, as applicable.

(5) Alleged perpetrator's access to the child, if applicable.

(6) The child's current condition.

(7) The child's current location.

(8) Circumstances regarding the abuse, neglect, or dependency or the circumstances indicating a need for PCSA services.

(9) Information regarding any evidence of previous injuries, abuse, or neglect.

(10) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or the known or suspected threat of injury, abuse, or neglect or the case circumstances that support the family is in need of PCSA services.

(B) The PCSA may request that a referent/reporter providing information submit the allegations in writing. The PCSA shall not delay making the screening decision while waiting for the written information from the referent/reporter.

(C) All information reported to a PCSA alleging known or suspected child abuse, neglect, or dependency, or indicating a family is in need of PCSA services shall be recorded in the statewide automated child welfare information system (SACWIS) in accordance with the following:

(1) Referral information received shall be recorded in SACWIS no later than the next working day from the date of the receipt of the referral information.

(2) The original date and time the referral information is received by the PCSA shall be reflected in SACWIS including the actual date and time of the screening decision.

(D) If a PCSA receives a referral alleging abuse or neglect of a child located in Ohio and the child's

parent, guardian or custodian resides in another state, the PCSA shall:

(1) Contact the children services agency (CSA) and inform the CSA of the referral pursuant to rule 5101:2-36-13 of the Administrative Code.

(2) If the referral is not accepted by the CSA where the child's parent, guardian or custodian resides, the PCSA shall categorize and complete a screening decision in accordance with this rule.

(E) If a PCSA receives a referral alleging an incident of child abuse or neglect that occurred in Ohio, the child is located outside of Ohio, and the child's parent, guardian or custodian resides in another state, the PCSA shall:

(1) Contact the CSA and inform the CSA of the referral pursuant to rule 5101:2-36-13 of the Administrative Code.

(2) Make a referral to the law enforcement agency with jurisdiction if the referral alleges a criminal offense.

(F) The PCSA shall categorize the information received into one of the following intake categories:

(1) Child abuse and/or neglect report.

(a) Physical abuse, in accordance with section 2151.031 of the Revised Code, and any report alleging either of the following:

(i) An infant identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(ii) An infant diagnosed with a fetal alcohol spectrum disorder.

(b) Physical abuse, shaken baby, in accordance with section 2151.031 of the Revised Code.

(c) Sexual abuse, in accordance with section 2151.031 of the Revised Code and Chapter 2907. of the Revised Code.

(d) Emotional maltreatment/mental injury, in accordance with section 2151.011 or 2151.031 of the Revised Code.

(e) Neglect, in accordance with section 2151.03 of the Revised Code.

(f) Medical neglect, in accordance with section 2151.03 of the Revised Code.

(g) Disabled infant, also known as "Baby Doe", in accordance with rule 5101:2-36-07 of the Administrative Code.

(2) Dependency report. Dependent child, as defined in section 2151.04 of the Revised Code.

(3) Family in need of services report.

(a) Emancipated youth, in accordance with rule 5101:2-42-19.2 of the Administrative Code.

(b) Permanent surrender, in accordance with rule 5101:2-42-09 of the Administrative Code.

(c) Deserted child, as defined in rule 5101:2-1-01 of the Administrative Code and in accordance with rule 5101:2-36-06 of the Administrative Code.

(d) Stranger danger investigation, in accordance with rule 5101:2-36-05 of the Administrative Code for a child whom the PCSA considers to be in need of public care or protective services.

(e) Post-finalization adoption services, in accordance with rule 5101:2-1-01 of the Administrative Code upon the request of the birth parent, adoptive parent or adoptee.

(f) Preventive services, as defined in rule 5101:2-1-01 of the Administrative Code for a child whom the PCSA considers to be in need of public care or protective services.

(g) Unruly child/delinquent child, whom the PCSA considers to be in need of public care or protective services in accordance with section 5153.16 of the Revised Code and memorandum's specified in rule 5101:2-33-26 of the Administrative Code.

(h) Child fatality, non-child abuse/neglect, in accordance with rule 5101:2-42-89 of the Administrative Code.

(i) Required non-lead PCSA interviews, in accordance with rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-09 of the Administrative Code and sections 5103.20 and 2151.56 of the Revised Code.

(j) Courtesy supervision in accordance with sections 5103.20 and 2151.56 of the Revised Code.

(k) Home evaluation/visitation assessment, in accordance with rules 5101:2-1-01 and 5101:2-42-18 of the Administrative Code or in response to a request from another PCSA or a court exercising appropriate jurisdiction.

(l) Pre-placement or postnatal services for the placement of an infant of an incarcerated mother, in accordance with rule 5101:2-42-60 of the Administrative Code.

(m) Adoption subsidy only in accordance with Chapter 5101:2-49 of the Administrative Code.

(n) Interstate compact on the placement of children (ICPC) in accordance with rule 5101:2-52-04 of the Administrative Code.

(o) Alternative response required non-lead PCSA contacts, in accordance with rule 5101:2-36-20 of the Administrative Code.

(4) Information and/or referral, pursuant to rule 5101:2-1-01 of the Administrative Code, if paragraph (F)(1), (F)(2), or (F)(3) of this rule do not apply.

(G) The PCSA shall complete the screening decision and determine the immediacy of need for agency response to ensure child safety within twenty-four hours from receipt of the information and following the categorization of the referral information in accordance with paragraphs (F)((1), (F)(2), and (F)(3) of this rule based on the information received from the referent/reporter and the child protective services records regarding the principals of the report.

(H) If the PCSA screens out a referral of abuse or neglect and a principal of the report is a person responsible for the child's care in an out-of-home care setting pursuant to rule 5101:2-1-01 of the Administrative Code, the PCSA shall notify licensing and supervising authorities, as appropriate, no

later than four working days from the date of the screening decision to share information.

(I) PCSAs that have written approval from the Ohio department of job and family services to participate in alternative response shall assign reports screened in and categorized pursuant to paragraph (F)(1) of this rule to one of the following pathways:

(1) Traditional response, pursuant to Chapters 5101:2-36, 5101:2-37, and 5101:2-38 of the Administrative Code.

(2) Alternative response, pursuant to rules 5101:2-36-20 and 5101:2-38-20 of the Administrative Code.

(J) The PCSA shall assign the following types of reports of child abuse and/or neglect to the traditional response pathway:

(1) Reports containing allegations that could result in charges of felony child endangering.

(2) Physical abuse resulting in serious injury or that creates a serious and immediate risk to a child's health and safety.

(3) Reports containing allegations that could result in charges of criminal sexual conduct.

(4) Reports containing allegations of the sexual abuse of a child or an abused child who is also a victim of sexual abuse.

(5) Reports containing allegations that could result in charges of homicide.

(6) Reports requiring a specialized assessment as identified in rule 5101:2-36-04 of the Administrative Code.

(7) Reports requiring a third party investigative procedure as identified in rule 5101:2-36-08 of the Administrative Code.

(8) Reports containing allegations regarding a suspicious child fatality.

(K) All referral information categorized as information and/or referral pursuant to paragraph (F)(4) of this rule shall be screened out. The PCSA shall identify which of the following activities was completed by the PCSA.

(1) Directed/advised to contact non-PCSA service provider within the county.

(2) Directed/advised to contact non-PCSA service provider outside the county.

(3) Provided information only/no referral made.

(4) Additional information received on an open case that is not alleging abuse or neglect of a child.

(L) The PCSA may refer the referent/reporter to the county prosecutor pursuant to the county child abuse and neglect memorandum of understanding developed pursuant to section 2151.421 of the Revised Code.

(M) Additional child abuse and/or neglect allegations screened in within the first four working days of the acceptance of a child abuse and/or neglect report and prior to the completion of an assessment of safety with the child and the parent/caregiver, may be added to the initial report and assessed/investigated concurrently with the allegations received initially. The date and time the subsequent report was received along with the reporter information shall be recorded.

(N) Additional child abuse and/or neglect allegations screened in after the first four working days of the acceptance of the previous child abuse and/or neglect report or after completion of the assessment of safety shall be recorded as a subsequent child abuse and/or neglect report and are subject to the requirements contained in rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-05 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421, 2151.3518, 5153.166
Rule Amplifies: 2151.421, 2151.3518, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97, 3/01/06, 10/01/09, 07/01/11

5101:2-36-03 PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations.

(A) A public children services agency (PCSA) shall conduct an intra-familial child abuse and/or neglect assessment/investigation in response to a child abuse and/or neglect report if one or more of the following applies:

(1) The alleged perpetrator is a member of the alleged child victim's family.

(2) The alleged perpetrator is known to the family or child and has had access to the alleged child victim, whether or not the access was known or authorized by the child's parent, guardian or custodian.

(3) The alleged perpetrator is involved in daily or regular care for the alleged child victim, excluding a person responsible for the care of a child in an out-of-home care setting.

(B) An intra-familial assessment/investigation shall involve a third party if a principal named in the report poses a conflict of interest for the PCSA pursuant to rule 5101:2-36-08 of the Administrative Code.

(C) The PCSA may request the assistance of law enforcement during an assessment/investigation if one or more of the following situations exist and the reason for contacting law enforcement is documented in the case record:

(1) The agency has reason to believe that the child is in immediate danger of serious harm.

(2) The agency has reason to believe that the worker is, or will be, in danger of harm.

(3) The agency has reason to believe that a crime is being committed, or has been committed against a child.

(4) The assistance of law enforcement needs to be invoked in accordance with the county child abuse

and neglect memorandum of understanding.

(D) The PCSA shall initiate the screened in child abuse and/or neglect report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition, and can provide current information about the child's safety.

(3) If face-to-face contact with the alleged child victim was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact with the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(E) The PCSA shall document in the case record the date, time, and with whom the assessment/investigation was initiated.

(F) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code.

(1) The PCSA shall attempt face-to-face contact with the alleged child victim and a parent,guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (F)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date the referral was screened in as a report.

(G) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (D) and (F) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (U) or (V) of this rule.

(H) The PCSA shall not interview the alleged child victim or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(I) Should an alleged child victim provide information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(J) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

(K) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete a telephone contact with the child's parent, guardian, or custodian to inform them that an interview of the child occurred and provide the specific facts necessitating the child be contacted without parental consent.

(L) If the attempt to contact the child's custodian pursuant to paragraph (K) of this rule is unsuccessful, the PCSA shall continue to attempt to complete face-to-face contact with the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA is required to make a case disposition pursuant to paragraphs (U) and (V) of this rule.

(M) The PCSA shall conduct and document face-to-face interviews with each child residing within the home of the alleged child victim. If possible each child should be interviewed separately and apart from the alleged perpetrator. The purpose of the interviews is to:

(1) Evaluate each child's condition.

(2) Determine if each child is safe.

(3) Obtain each child's explanation regarding the allegations contained in the report.

(N) The PCSA need not interview a child if it is determined that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child, unless requested by the lead PCSA pursuant to paragraph (AA) or (BB) of this rule.

(O) The PCSA shall conduct and document face-to-face interviews with the alleged perpetrator and all adults residing in the home of the alleged child victim, unless law enforcement or the county prosecutor will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to:

(1) Assess his or her knowledge of the allegation.

(2) Observe the interaction between the alleged child victim and caretaker.

(3) Obtain relevant information regarding the safety and risk to the child.

(P) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(Q) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(R) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of areas of trauma on the child's body.

(2) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(3) Attempting to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(4) Attempting to secure any relevant records, including but not limited to school, mental health, and medical records.

(S) At any time the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(T) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(U) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model -I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(V) If the child abuse and/or neglect report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the report disposition by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

(1) The JFS 01402 shall be completed no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report.

(2) The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(W) The PCSA shall not waive the completion of the report disposition.

(X) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, and/or the court if refused access to the alleged child victim or any records necessary to conduct the assessment/investigation.

(Y) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(Z) Within two working days of completion of the assessment/investigation, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the report disposition and final case decision.

(2) Notify the alleged perpetrator in writing of the report disposition; the right to appeal; and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated report of child abuse or neglect regardless of the child's role in the report.

(4) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and the case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(AA) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, legal custodian of the alleged child victim resides.

(3) If an order of shared parenting has been issued and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(BB) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the

county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(CC) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, JFS 01400, and/or JFS 01402 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(DD) The PCSA shall follow procedures set forth in rule 5101:2-36-07 of the Administrative Code if the report involves alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.

(EE) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16.
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97; 4/1/01, 12/1/01, 6/25/04, 03/01/06, 10/01/09, 03/01/12

5101:2-36-04 PCSA requirements for conducting a specialized assessment/investigation.

(A) The public children services agency (PCSA) shall conduct a specialized assessment/investigation if the child abuse or neglect report involves an alleged perpetrator who meets one or more of the following criteria:

(1) Is a person responsible for the alleged child victim's care in an out-of-home care setting as defined in rule 5101:2-1-01 of the Administrative Code.

(2) Is a person responsible for the alleged child victim's care in out-of-home care as defined in section 2151.011 of the Revised Code.

(3) Has access to the alleged child victim by virtue of his/her employment by or affiliation to an institution.

(4) Has access to the alleged child victim through placement in an out of home care setting.

(B) A specialized assessment/investigation shall require a third party if a principal named in the report poses a conflict of interest for the PCSA pursuant to rule 5101:2-36-08 of the Administrative Code.

(C) If a specialized assessment/investigation of an abuse and/or neglect report involves multiple alleged child victims from multiple cases, the PCSA shall complete a separate assessment/investigation for each case. The completion of the JFS 01403, " Specialized Assessment and Investigation" (rev. 2/2006) is required for each case.

(D) The PCSA shall initiate the screened in child abuse and/or neglect report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition, and can provide current information about the child's safety.

(E) If face-to-face contact with the alleged child victim was not completed within the twenty-four hour time frame, an attempt of face-to-face contact with the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(F) The PCSA shall document in the case record the date, time, and with whom the specialized assessment/investigation was initiated.

(G) If the attempted face-to-face contact with the alleged child victim, as specified in paragraphs (D) and (E) of this rule is unsuccessful, the PCSA shall continue to make attempts for face-to-face contact , every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (T) of this rule.

(H) If a child abuse and/or neglect report involves an alleged child victim, or the sibling of an alleged child victim who was not named as an alleged child victim, who is not in the custody of a PCSA or PCPA, the PCSA shall not interview the child without parental consent unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(I) Should an alleged child victim provide information during an interview that indicates a sibling might

be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(J) The specific facts necessitating that assessment/investigative interviews of a child be conducted without parental consent must be documented in the case record.

(K) If an alleged child victim is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face or complete a telephone contact with the alleged child victim's parent, guardian, or custodian to inform them that an interview of their child occurred.

(1) If the attempt to contact the child's custodian pursuant to paragraph (K) of this rule is unsuccessful, the PCSA shall continue to attempt to contact the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA makes a report disposition pursuant to paragraph (T) of this rule.

(2) The PCSA shall document in the case record the date and time of the contact, or attempted contacts.

(L) If the PCSA conducts a specialized assessment/investigation, the PCSA shall:

(1) Within twenty-four hours of the screening decision contact the out-of-home care setting administrative officer, director, or other chief administrative officer, or if the administrative officer, director or other chief administrative officer is alleged to be the perpetrator, the board of directors, county commissioners, or law enforcement as applicable in order to:

(a) Share information regarding the report.

(b) Discuss what actions have been taken to protect the alleged child victim.

(c) Provide information about the assessment/investigation activities that will follow.

(2) No later than the next working day, from the date the referral was screened in as a child abuse and/or neglect report inform the parent(s), guardian, or custodian of the alleged child victim that a report of abuse and/or neglect involving his or her child is being assessed/investigated and of the allegations contained within the report .

(3) No later than the next working day, from the date the referral was screened in as a child abuse and/or neglect report contact licensing and supervising authorities, as appropriate, to share information .

(4) Attempt to coordinate the interview of the alleged child victim if another agency is required by statute or administrative rule to conduct its own assessment/investigation to minimize the number of interviews of the child .

(5) Conduct and document face-to-face interviews with the alleged child victim to:

(a) Evaluate the alleged child victim's condition.

(b) Determine whether the child is safe.

(c) Obtain the alleged child victim's explanation regarding the allegations contained in the report.

(6) Conduct and document all face-to-face interviews with the alleged perpetrator, unless law enforcement or the county prosecutor will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to assess his or her knowledge of the allegation.

(7) Advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(8) Conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the privacy of the principals of the report.

(9) As appropriate, conduct and document all face-to-face interviews with the parent, guardian, or custodian and/or caretaker of the alleged child victim to gather relevant information regarding the parent, guardian, or custodian and/or caretaker's ability to keep the child safe and identify what, if any, services are needed by the family.

(10) Attempt to secure any relevant records necessary to assess safety and risk to the child, including but not limited to school, mental health, medical, incident reports in an out-of-home care setting.

(11) Take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(a) Taking photographs of areas of trauma on the child's body.

(b) Taking photographs of the child's environment with the consent of the out-of-home setting administrator.

(c) Securing a medical examination or psychological evaluation, or both, of the child with the consent of the child's parent, guardian, or custodian or with a court order.

(M) The PCSA does not have to interview an alleged child victim if the PCSA determines that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child, unless requested by the lead PCSA pursuant to paragraphs (R) and (Y) of this rule.

(N) At any time the PCSA determines a child is in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 or 5101:2-39-03 of the Administrative Code.

(O) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(P) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the alleged child victim or any records necessary to conduct the specialized assessment/investigation.

(Q) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, has limited English proficiency or is developmentally delayed.

(R) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, legal custodian of the alleged child victim resides. .

(3) If an order of shared parenting has been issued, and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(S) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01403 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(T) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01403 no later than forty-five days from the date the PCSA screened in the referral as a child abuse and neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(U) Investigative activities conducted independently by other agencies, does not relieve the PCSA of its responsibility for concluding an assessment/investigation in accordance with this rule. The PCSA shall not waive the completion of the report disposition.

(V) Within two working days of completion of the JFS 01403, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand, and the child's parent, guardian, or custodian of the report disposition and the final case decision.

(2) Notify the alleged perpetrator in writing of the report disposition; the right to appeal ; and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated report of child abuse or neglect regardless of the child's role in the report.

(4) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and the case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(W) No later than three working days from the date of the completion of the report disposition, the PCSA shall provide written notification of the report disposition to the following entities, as applicable, in accordance with rules 5101:2-33-21 and 5101:2-36-12 of the Administrative Code:

(1) Administrator, director, or other chief administrator of the out-of-home care entity.

(2) The owner or governing board of the out-of-home care entity.

(3) The appropriate licensing and supervising authorities of the out-of-home care entity.

(X) The PCSA shall not provide witness statements, police reports, or other investigative reports to the entities described in paragraph (W) of this rule.

(Y) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(Z) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16

Rule Amplifies: 2151.3516, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/01/06, 10/01/09, 03/01/12

5101:2-36-05 PCSA requirements for conducting stranger danger investigations.

(A) A public children services agency (PCSA) shall conduct a stranger danger investigation in response to a child abuse report alleging a criminal act against a child of assault or sexual activity as defined under Chapter 2907. of the Revised Code, if the alleged perpetrator was unknown to the alleged child victim and the alleged child victim's family prior to the incident(s).

(B) The PCSA shall refer the report to the appropriate law enforcement authority pursuant to rule 5101:2-36-12 of the Administrative Code within twenty-four hours of the time the report was screened in, unless the report was received from the law enforcement agency with jurisdiction.

(C) The PCSA shall initiate the stranger danger report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the alleged child victim within one hour from the time the referral was screened in, to assess child safety and interview the alleged child victim.

(2) For all other reports, the PCSA shall attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral source who has knowledge of the alleged child victim's current condition and can provide current information about the child's safety.

(3) If face-to-face contact with the alleged child victim was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact the alleged child victim shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the alleged child victim.

(D) The PCSA shall document in the case record the date, time and with whom the assessment/investigation was initiated.

(E) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code .

(1) The PCSA shall attempt face-to-face contact with the alleged child victim and a parent, guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the attempted face-to-face contacts with the alleged child victim, as specified in paragraphs (C) and (E) of this rule are unsuccessful, the PCSA shall, at a minimum continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to make a report disposition pursuant to paragraph (S) of this rule.

(G) The PCSA shall not interview the alleged child victim or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged abuse in his or her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(H) Should an alleged child victim provide information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the alleged child victim, the interview of the sibling who was not identified as an alleged child victim may commence.

(I) The specific facts necessitating that investigative interviews of a child be conducted without parental consent must be documented in the case record.

(J) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete telephone contact with the child's parent, guardian, or custodian to inform them that an interview of their child occurred. If unsuccessful, an attempt to complete face-to-face contact shall occur once every five working days until contact is made with the child's parent, guardian, or custodian or until the PCSA is required to make a report disposition pursuant to paragraph (S) of this rule.

(K) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(L) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(M) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of areas of trauma on the child's body.

(2) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(3) Attempting to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(4) Attempting to secure any relevant records, including but not limited to school, mental health, and medical records.

(N) If the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(O) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(P) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact with the person. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the investigation process.

(Q) Prior to completion of the report disposition, the PCSA shall contact law enforcement and document information regarding the status of the criminal investigation in the case record. The PCSA shall notify the prosecuting attorney if there is reason to believe the alleged perpetrator has not been investigated by law enforcement.

(R) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the alleged child victim or any records necessary to conduct the investigation.

(S) The PCSA shall complete the report disposition no later than forty-five days from the date the PCSA determines that the referral is screened in as a family in need of services stranger danger report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(T) The PCSA shall not waive the completion of the report disposition.

(U) A JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006), shall be completed pursuant to rule 5101:2-37-03 of the Administrative Code at any time the PCSA determines that the family of the alleged child victim is unable or unwilling to protect the child. The PCSA will assess and determine whether the family and/or child is in need of supportive services by the PCSA or the community.

(V) If two or more Ohio PCSAs are involved in an assessment/investigation the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county the custodial parent, legal guardian, legal custodian of the alleged child victim resides. If an order of shared parenting has been issued and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(3) If an order of shared parenting has been issued, and a residential parent has not been designated

by the court, the PCSA located within the county of residence of the custodian who has physical care of the alleged child victim at the time the incident occurred.

(W) Within two working days of completion of the assessment/investigation, the PCSA shall:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the report disposition and if applicable, the final case decision.

(2) Notify the alleged perpetrator, if known, in writing of the report disposition; and their right to appeal, and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(3) Refer all children under the age of three to "Help Me Grow" for early intervention services if there is a substantiated case of child abuse or neglect regardless of the child's role in the report.

(4) Document in the case record, the date and method of notification to the principals of the report.

(5) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, the report disposition, and case decision.

(6) Document in the case record, the date and method of notification to the principals of the report of the above listed activities.

(X) If a report of child abuse and neglect involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment/investigation and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment/investigation if a determination is made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment/investigation if a determination cannot be made immediately if an agreement is in effect.

(Y) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the investigation within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(Z) The investigation documentation and any materials obtained as a result of the investigation shall be maintained in the case record. If any information gathering activity cannot be completed, justification and the written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 6/1/97, 2/1/03, 3/01/06, 10/01/09

5101:2-36-06 PCSA requirements for a deserted child assessment/investigation.

(A) A public children services agency (PCSA) shall conduct a deserted child assessment/investigation if all of the following apply to the child subject of the report:

(1) The child is fewer than thirty-one days old.

(2) The child was voluntarily left by the child's parent in the care of an emergency medical service worker, peace officer, or hospital employee by the child's parent(s).

(3) The child was left and the child's parent(s) did not express an intention to return for the child.

(B) The PCSA shall initiate the screened in report by attempting face-to-face contact with the child subject of the report within one hour from the time the referral was screened in as a report.

(C) The PCSA shall contact the individual who originally took possession of the child and obtain:

(1) The date and time the child subject of the report was left with the individual.

(2) All information regarding the child left by the parent(s).

(3) The JFS 01672 "Voluntary Medical History For Safe Havens" (rev. 3/2009) form, if completed by the child's parent(s).

(4) All clothing and articles left with the child.

(D) The PCSA shall accept emergency temporary custody of the child subject of the report.

(E) The PCSA shall arrange for the child subject of the report to be examined by a physician within one hour of face-to-face contact with the child subject of the report.

(1) The examination shall assess the health and well being of the child and indicators of maltreatment.

(2) If the child subject of the report is not left at a hospital, the PCSA shall transport, or arrange for transportation of the child to the nearest appropriate hospital emergency department.

(F) The PCSA shall obtain the medical examination report from the physician .

(G) The PCSA shall screen in a report of child abuse and/or neglect if any of the following occur during the assessment/investigation of a deserted child:

(1) The child's condition reasonably indicates abuse and/or neglect.

(2) The PCSA determines that someone other than the parent delivered the child subject of the report to the care of an emergency medical service worker, peace officer, or hospital employee.

(3) The child subject of the report is determined to be more than thirty days old at the time the child was delivered to the care of an emergency medical service worker, peace officer, or hospital employee.

(H) The PCSA shall place the child subject of the report in substitute care pursuant to rule 5101:2-42-04 of the Administrative Code and provide a copy of the medical examination report to the caregiver.

(I) The PCSA shall contact the following agencies and determine if a child matching the description of the child subject of the report has been reported missing:

(1) Local law enforcement.

(2) Ohio's missing children's information clearinghouse (http://www.mcc.ag.state.oh.us/).

(3) National center for missing and exploited children (http://www.missingkids.com/).

(J) The PCSA shall complete activities to obtain a birth certificate and a social security card for the child subject of the report.

(K) The PCSA shall complete the deserted child assessment/investigation no later than forty-five days from the date the referral was screened in as a report.

(L)

(M) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation shall be maintained in the case record.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 12/1/01, 3/01/06, 10/01/09

5101:2-36-07 PCSA requirement for conducting an assessment/investigation of the alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.

(A) The public children services agency (PCSA) shall conduct an assessment/investigation if a neglect report alleges the withholding of medically indicated treatment from a disabled infant with life-threatening condition(s).

(1) The withholding of medically indicated treatment is the refusal to provide appropriate nutrition, hydration, medication or other medically indicated treatment from a disabled infant with a life-threatening condition.

(2) Medically indicated treatment includes the medical care most likely to relieve, or correct, the life-threatening condition. Nutrition, hydration, and medication, as appropriate for the infant's needs, are medically indicated for all disabled infants; as well as, the completion of appropriate evaluations or consultations necessary to assure that sufficient information has been gathered to make informed

medical decisions on behalf of the disabled infant.

(3) In determining whether treatment is medically indicated, reasonable medical judgments made by a prudent physician, or treatment team, knowledgeable about the case and its treatment possibilities are considered. The opinions about the infant's future "quality of life" are not to bear on whether or not a treatment is judged to be medically indicated. Medically indicated treatment does not include the failure to provide treatment to a disabled infant if the treating physician's medical judgment identifies any of the following:

(a) The disabled infant is chronically and irreversibly comatose.

(b) The provision of the treatment is futile and will prolong dying.

(c) The provision of the treatment would not be effective in ameliorating or correcting all of the disabled infant's life threatening conditions.

(d) The provision of such treatment to the disabled infant is inhumane.

(B) The PCSA shall initiate the screened in medical neglect report in accordance with the following:

(1) Complete face-to-face or telephone contact with the health care facility's administrator, or designee, within one hour from the time the referral was screened in as a report.

(2) Obtain the following information from the health care facility's administrator, or designee, regarding the current condition of the disabled infant, including but not limited to:

(a) The physical location of the disabled infant within the hospital, e.g., emergency room, neonatal intensive care unit, labor and delivery, sixth floor, etc.

(b) The disabled infant's age.

(c) The disabled infant's diagnoses or diagnosis and the prognosis.

(d) The problem requiring treatment.

(e) The immediate actions necessary to keep the disabled infant alive.

(f) Whether or not the withholding of life-sustaining treatment has been recommended.

(g) Whether or not the withholding of life-sustaining treatment has been implemented.

(h) Whether or not the parent, guardian, or custodian has refused to consent to life-sustaining treatment.

(i) Whether or not the hospital chose to sustain life-supporting care for the immediate future, preceding ninety-six hours from the date and time the PCSA initiated the report, while the assessment/investigation is underway.

(j) Whether or not sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.

(C) The PCSA shall document in the case record the date, time, and with whom the assessment/investigation was initiated.

(D) The PCSA shall involve a qualified medical consultant within twenty-four hours from the time the referral was screened in as a report to assist in the evaluation of the disabled infant's medical information, including medical records, obtained during the preliminary medical assessment.

(E) If the PCSA determines the child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(F) The PCSA shall pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child if such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.

(G) The PCSA shall attempt a face-to-face contact in order to conduct an interview with the alleged disabled infant's parent, guardian, or custodian no later than twenty-four hours from the time the referral was screened in as a report. The purpose of the interview is to:

(1) Inform the parent, guardian, or custodian that a neglect report alleging the withholding of medically indicated treatment to a disabled infant has been accepted by the PCSA.

(2) Inform the parent guardian, or custodian of the purpose of the assessment/investigation.

(3) Seek parental consent for medically indicated treatment, if applicable.

(4) Confirm parent, guardian, or custodian's name and identifying information.

(5) Determine if parent, guardian, or custodian agrees on the course of action to be followed.

(6) Determine if the parent, guardian, or custodian was presented with all treatment options by the medical treatment team.

(7) Determine if the prognosis of the disabled infant was presented to the parent, guardian, or custodian.

(8) Assess if the parent, guardian, or custodian understands the information provided by the medical treatment team.

(9) Determine the nature and degree of parental involvement in the decision to deny treatment or sustenance to the alleged child victim, if applicable.

(10) Assess if appropriate counseling services have been made available to the parent, guardian, or custodian.

(11) Refer the parent, guardian, or custodian to appropriate counseling services, if applicable.

(12) Determine if the parent, guardian, or custodian was provided information to facilitate access to available services for disabled persons and family members.

(13) Assist the parent, guardian, or custodian in accessing needed services, if applicable.

(14) Determine if the parent, guardian, or custodian participated in the hospital review process.

(15) Determine if the parent, guardian, or custodian was provided with or has access to the results of the hospital review process.

(H) If the attempted face-to-face contact with the disabled infant's parent, guardian, or custodian as specified in paragraph (G) of this rule is unsuccessful, the PCSA shall continue making attempts of face-to-face contact at least every five working days until face-to-face contact occurs or until the PCSA is required to make a report disposition pursuant to paragraph (O) of this rule.

(I) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code within four working days from the date the report was screened in.

(J) The PCSA shall document in the case record the date and time of the contact, or attempted contacts.

(K) The PCSA shall, in cooperation with the medical consultant, conduct and document interviews with the attending physician and health care facility staff. The purpose of the interviews is to:

(1) Determine the measures that the health care facility staff attending to the disabled infant has taken to provide medically indicated treatment to the disabled infant.

(2) Determine whether or not the disabled infant's attending physician, with the consent of the disabled infant's parent, guardian or custodian will sustain needed life-supporting care for twenty-four hours while the PCSA continues the assessment/investigation.

(3) Determine if any of the following conditions of and risk to the disabled infant were concluded by the attending physician's and/or staff's assessment:

(a) The disabled infant is chronically and irreversibly comatose.

(b) The provision of medical treatment will merely prolong dying, not be effective in ameliorating or correcting all of the disabled infant's life-threatening conditions, or otherwise be futile in terms of the survival of the disabled infant.

(c) The provision of medical treatment will be virtually futile in terms of the survival of the disabled infant and the treatment itself under such circumstances will be inhumane.

(4) Verify if plans have been made to convene a meeting of the health care facility review committee or to adopt the recommendations of the appropriate health care facility review committee, and the meeting has been held.

(5) Confirm the disabled infant's age.

(6) Confirm the disabled infant's diagnoses or diagnosis.

(7) Determine if the disabled infant's life is endangered.

(8) Determine if the withholding of life-sustaining treatment is recommended.

(9) Determine if the withholding of life-sustaining treatment is implemented.

(a) Identify the treatment necessary for the disabled infant's life or health being denied.

(b) Determine if sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.

(10) Determine if the parent, guardian, or custodian refused to consent to life-sustaining treatment.

(11) Determine if the hospital will sustain life-supporting care for the immediate future while the PCSA's assessment/investigation is conducted, if applicable.

(12) Identify the treatment or sustenance being provided to the disabled infant, if applicable.

(13) Determine if there is consensus regarding the medical diagnoses among the treatment team.

(14) Document and identify if there were/have been any differing opinions among the treatment team.

(15) Document the names of all medical consultants involved including their qualifications/credentials.

(16) Determine which members of the treatment team discussed the case with the parent, guardian, or custodian.

(17) Determine if a hospital review process occurred.

(a) If applicable, document the review process.

(b) If applicable, document the recommendations.

(L) The PCSA shall conduct and document all face-to-face interviews with the alleged perpetrator, unless law enforcement or the county prosecutor or medical consultant will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to assess his or her knowledge of the allegation.

(M) The PCSA shall advise the alleged perpetrator of the allegations made against him or her at the time of the initial contact. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.

(N) The PCSA shall conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the privacy of the principals of the report.

(O) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(P) The PCSA shall not waive the completion of the report disposition.

(Q) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a

principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(R) Within two working days of completion of the assessment/investigation, the PCSA shall notify the alleged perpetrator in writing of the report disposition and the right to appeal the disposition pursuant to rule 5101:2-33-20 of the Administrative Code.

(S) Within two working days from the date of the completion of the report disposition, the PCSA shall notify the disabled infant's parent(s) in writing of the report disposition and case decision.

(T) No later than three working days from the date of the completion of the report disposition, the PCSA shall provide written notification of the report disposition to the following entities, as applicable, in accordance with rules 5101:2-33-21 and 5101:2-36-12 of the Administrative Code.

(1) Administrator, director, or other chief administrator of the health care facility.

(2) The owner or governing board of the health care facility.

(3) The appropriate licensing and supervising authorities of the health care facility.

(U) The PCSA shall notify law enforcement if it is determined that the attending physician failed to provide medically indicated treatment or failed to inform the disabled infant's parent, guardian, or custodian of the available treatment options.

(V) The PCSA shall maintain all materials obtained as a result of the assessment/investigation in the case record.

Effective: 03/01/2014
R.C. 119.032 review dates: 11/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 4/1/86 (Emer.), 6/19/86 (Emer.), 8/1/86, 1/1/89, 10/1/95, 1/1/00, 4/1/01, 3/01/06, 10/01/09

5101:2-36-08 PCSA requirements for involving a third party in the assessment/investigation of a child abuse or neglect report.

(A) The public children services agency (PCSA) shall adhere to this rule for reports of child abuse or neglect where there is a potential conflict of interest because one or more of the following parties is a principal of the report:

(1) Any employee of an institution or facility that is licensed or certified by the Ohio department of job and family services (ODJFS) or another state agency and supervised by the PCSA.

(2) A foster caregiver, pre-finalized adoptive parent, adoptive parent, relative, or kinship caregiver who is recommended, approved, or supervised by the PCSA.

(3) A type B family day care home certified or licensed by a county department of job and family services (CDJFS) that has assumed the powers and duties of the county children services function

defined in Chapter 5153. of the Revised Code.

(4) Any employee, or agent of ODJFS or the PCSA as defined in Chapter 5153. of the Revised Code.

(5) Any authorized person representing ODJFS or the PCSA who provides services for payment or as a volunteer.

(6) A foster caregiver or an employee of an institution or facility licensed or certified by ODJFS and the alleged child victim is in the custody of, or receiving services from, the PCSA that accepted the report.

(7) Any time a PCSA determines that a conflict of interest exists. The PCSA shall document in the case record if a conflict of interest is identified.

(B) The involvement of a third party does not relieve the lead PCSA of its responsibility to ensure assessment/investigation activities are completed.

(C) A law enforcement agency or another PCSA may serve as the third party to an assessment/investigation of child abuse or neglect.

(1) The PCSA shall request the assistance of law enforcement as the third party if the child abuse or neglect report alleges a criminal offense.

(2) The PCSA may request the assistance of another PCSA as the third party if the child abuse or neglect report does not allege a criminal offense and both agencies agree to participate in the assessment/investigation including the delegation of investigatory responsibilities.

(D) In lieu of law enforcement or another PCSA, the PCSA may operate an in-house unit to assess/investigate reports of child abuse and neglect requiring a third party if all of the following apply:

(1) An agency employee is not named as a principal in the report.

(2) The report does not allege a criminal offense.

(3) The PCSA maintains written internal policies and procedures for the review and approval of assessments/investigations conducted by the in-house unit.

(4) The in-house unit works independently of all other units within the PCSA.

(E) Within twenty-four hours of the identification of a conflict of interest, the PCSA shall request and document the assistance of a third party .

(F) Upon acceptance of the request from the lead PCSA, the non-lead PCSA shall complete the assessment/investigation within the time frames established pursuant to rule 5101:2-36-03 or 5101:2-36-04 of the Administrative Code.

(G) In instances where law enforcement or another PCSA declines to assist the PCSA, the PCSA is responsible for conducting the assessment/investigation. The PCSA is responsible for having procedures in place to address the conflict of interest and ensure the completion of the assessment/investigation.

(H) The PCSA shall comply with all procedures pursuant to rule 5101:2-36-03 or 5101:2-36-04 of the Administrative Code.

(I) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation including the third party assessment/investigation report from law enforcement or the non-lead PCSA shall be maintained in the case record.

Five Year Review (FYR) Dates: 10/01/2015 and 10/01/2020
Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.3518, 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/01/06, 10/01/09, 3/01/11, 3/1/14

5101:2-36-09 Requirements for dependent child assessments.

(A) A public children services agency (PCSA) shall conduct a dependency assessment in response to a dependency report if any of the following conditions apply to a child subject of the report absent allegations of abuse or neglect:

(1) The child subject of the report is homeless or destitute or without adequate parental care, through no fault of the child's parents, guardian, or custodian.

(2) The child subject of the report lacks adequate parental care as defined in section 2151.011 of the Revised Code.

(3) The child subject of the report's condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship.

(4) The child subject of the report is residing in a household where a parent, guardian, custodian, or other member of the household committed an act that was the basis for adjudication and a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

(B) The PCSA may request the assistance of law enforcement during an assessment if the following situations exist and the reason for contacting law enforcement is documented in the case record:

(1) The agency has reason to believe that the child is in immediate danger of serious harm.

(2) The agency has reason to believe that the worker is, or will be, in danger of harm.

(3) The agency has reason to believe that a crime is being committed, or has been committed against a child.

(4) The assistance of law enforcement needs to be invoked in accordance with the county child abuse and neglect memorandum of understanding.

(C) The PCSA shall initiate the screened in dependency report in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the child subject of the report within one hour from the time the referral was screened in, to assess child safety and interview the child subject of the report.

(2) For all other reports, attempt a face-to-face contact or complete a telephone contact within twenty-four hours from the time the referral was screened in, with a principal of the report or collateral

source who has knowledge of the child subject of the report's current condition, and can provide current information about the child's safety.

(3) If face-to-face contact with the child subject of the report was not attempted within the twenty-four hour time frame, an attempt of face-to-face contact with the child subject of the report shall be made within seventy-two hours from the time the report was screened in to assess child safety and interview the child subject of the report.

(D) The PCSA shall document in the case record the date, time, and with whom the assessment was initiated.

(E) The PCSA shall complete the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code..

(1) The PCSA shall attempt face-to-face contact with the child subject of the report and a parent, guardian, custodian, or caregiver within the first four working days from the date the report was screened in as a dependent report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the attempted face-to-face contacts with the child subject of the report as specified in paragraphs (C) and (E) of this rule are unsuccessful, the PCSA shall, at a minimum, continue making attempts for face-to-face contact at least every five working days until the child is seen or until the PCSA is required to complete a final case decision pursuant to paragraph (S) or (T) of this rule.

(G) The PCSA shall not interview the child subject of the report or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating that the child will be in immediate danger of serious harm upon return home from school or other locations away from their home.

(3) There is credible information indicating that the child may be intimidated from discussing the alleged dependency in his/her home.

(4) The child requests to be interviewed at school or another location due to one of the circumstances listed in this paragraph.

(H) If a child subject of the report provides information during an interview that indicates a sibling might be in immediate danger of serious harm or that the sibling could provide information regarding immediate danger of serious harm to the child subject of the report, the interview of the sibling who was not identified as a child subject of the report may occur.

(I) If a child is interviewed without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete a telephone contact with the child's, guardian, or custodian to inform them that an interview of their child occurred. If unsuccessful, an attempt to complete face-to-face contact shall occur once every five working days until contact is made with the child's parent, guardian,

or custodian or the time frame for completion of the assessment expires.

(J) The specific facts necessitating the assessment interviews of a child be conducted without parental consent must be documented in the case record.

(K) The PCSA shall conduct and document face-to-face interviews with each child residing within the home of the child subject of the report. If possible, each child should be interviewed separate and apart from the caretaker. The purpose of the interviews is to:

(1) Evaluate each child's condition.

(2) Determine if the child is safe.

(3) Obtain each child's understanding of the concerns contained in the report.

(L) The PCSA need not interview a child if it is determined that:

(1) The child does not have sufficient verbal skills.

(2) Additional interviewing would be detrimental to the child . For required non-lead interviews, this determination shall be made by the lead PCSA pursuant to paragraph (X) or (Y)of this rule.

(M) The PCSA shall conduct and document face-to-face interviews with the child's parent, guardian, or custodian and all adults residing in the home of the child in order to:

(1) Assess their knowledge of the situation.

(2) Observe the interaction between the child and caretaker.

(3) Obtain relevant information regarding the safety and risk to the child.

(N) At the time of the initial contact with the adult subject(s) of the report, the PCSA shall advise the adult subject(s) of the report of the specific concerns. The initial contact between the caseworker assessing a dependent child report and the adult subject(s) of the report of the report includes, whichever occurs first, face-to-face or telephone contact with the person if information is gathered as part of the assessment process.

(O) The PCSA shall conduct and document face-to-face interviews or telephone interviews with anyone identified as possible sources of information during the assessment to obtain relevant information regarding the safety and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(P) The PCSA shall take any other actions necessary to assess safety and risk to the child. These actions may include, but are not limited to:

(1) Taking photographs of the child's environment with the parent, guardian, or custodian's consent.

(2) Attempt to secure a medical examination or psychological evaluation or both of the child with consent of the child's parent, guardian, or custodian or with a court order.

(3) Attempt to secure any relevant records, including but not limited to school, mental health, and medical records.

(Q) At any time the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(R) If the PCSA determines supportive services are necessary, the supportive services shall be made available to the child, his or her parent, guardian, or custodian during all of the following pursuant to procedures established in rule 5101:2-40-02 of the Administrative Code:

(1) The safety planning process.

(2) The assessment/investigation process.

(S) The PCSA shall arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) no later than forty-five days from the date the report was screened in. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(T) If the dependency report involves a principal of the report who is currently receiving ongoing protective services from the PCSA, the PCSA shall complete the final case decision by completing the JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006).

(1) The JFS 01402 shall be completed no later than forty-five days from the date the report was screened in.

(2) The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the final case decision cannot be obtained within forty-five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.

(U) The PCSA shall not waive the completion of the final case decision.

(V) The PCSA shall request assistance from the county prosecutor, the PCSA's legal counsel, or the court if refused access to the child or any records required to conduct the assessment.

(W) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a member of the case has any impairment that creates a barrier to communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(X) Within two working days of completion of the assessment, the PCSA shall do all of the following:

(1) Notify the child, unless the child is not of an age or developmental capacity to understand; and the child's parent, guardian, or custodian of the final case decision.

(2) Notify the caretaker in writing of the final case decision.

(3) Refer any infant who has been born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to "Help Me Grow."

(4) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains

an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report and the final case decision.

(5) Document in the case record, the date and method of notification to the principals of the report of the above listed activities completed.

(Y) If two or more Ohio PCSAs are involved in an assessment, the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where a juvenile court has issued a protective supervision order.

(2) The PCSA located within the county where the custodial parent, legal guardian, or legal custodian of the child subject of the report resides.

(3) If an order of shared parenting has been issued, and there has been no residential parent designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the child subject of the report at the time the incident occurred.

(Z) If a report of dependency involves a child who is living in a shelter for victims of domestic violence or a homeless shelter, the PCSA that received the report shall do one of the following:

(1) Determine if the child was brought to the shelter pursuant to an agreement with a shelter in another county. If a determination is made that there was an agreement in place, the PCSA from the county from which the child was brought shall lead the assessment and provide the required supportive services or petition the court for custody of the child, if necessary.

(2) Lead the assessment if a determination was made that the child was not brought to the shelter under an agreement with a shelter in another county. If two or more PCSAs are involved, all PCSAs shall be responsible for following procedures outlined in this rule.

(3) Commence the assessment if a determination cannot be made immediately if an agreement is in effect.

(AA) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, JFS 01402, and the JFS 01400 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(BB) The assessment documentation and any materials obtained as a result of the assessment shall be maintained in the case record. If any information gathering activity cannot be completed, justification and written approval of the director or the designee shall be filed in the case record in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 5153.16
Rule Amplifies: 5153.16

Prior Effective Dates: 3/1/2006, 10/01/09 , 3/01/12

5101:2-36-10 PCSA requirements for responding to family in need of services reports.

(A) A public children services agency (PCSA) shall provide services to a child and family for the following screened in "Family In Need of Services" reports:

(1) "Adoption Subsidy" report.

(2) "Child Fatality, Non-Child Abuse/Neglect" report.

(3) "Courtesy Supervision" report.

(4) "Deserted Child" report.

(5) "Emancipated Youth" report.

(6) "Home Evaluation/Visitation Assessment" report.

(7) "Permanent Surrender" report.

(8) "Post Finalization Adoption Services" report.

(9) " Pre-placement or Postnatal Services for the Placement of an Infant of an Incarcerated Mother" report.

(10) "Preventive Services" report.

(11) "Required Non-lead PCSA Interview" report.

(12) "Stranger Danger Investigation."

(13) "Unruly/Delinquent" report.

(14) "Interstate Compact for the Placement of Children" (ICPC) report.

(15) "Alternative Response Required Non-lead PCSA Contacts" report.

(B) The PCSA shall follow the procedures and provide the services identified for each family in need of services subcategory as follows:

(1) Adoption subsidy only report, pursuant to Chapters 5101:2-44 and 5101:2-49 of the Administrative Code.

(2) Child fatality, non-child abuse/neglect report, pursuant to rule 5101:2-42-89 of the Administrative Code.

(3) Courtesy supervision report, to support the provision of services and activities described in sections 3113.31, 2151.271, 2151.151, 2151.353, 5103.20 and 2151.56 of the Revised Code.

(4) Deserted child report, as specified in rules 5101:2-36-06 and 5101:2-42-04 of the Administrative Code.

(5) Emancipated youth report, pursuant to rule 5101:2-42-19.2 of the Administrative Code.

(6) Home evaluation/visitation assessment report, as described in rule 5101:2-42-18 of the Administrative Code or as defined in rule 5101:2-1-01 of the Administrative Code.

(7) Permanent surrender report, pursuant to rule 5101:2-42-09 of the Administrative Code.

(8) Post finalization adoption services report, as defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall provide or arrange services to support, maintain, and assist an adopted child, adoptive family, or birth parent anytime after finalization of an adoption.

(9) Postnatal placement services to an infant of an incarcerated mother report, pursuant to rule 5101:2-42-60 of the Administrative Code.

(10) Preventive services report, as defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall provide services aimed at preventing child abuse and neglect which have been requested by the parent, guardian, or custodian for the family if there are no current allegations of child abuse, neglect, or dependency.

(11) Required non-lead PCSA interview report, pursuant to rules 5101:2-36-03, 5101:2-36-04, and 5101:2-36-09 of the Administrative Code.

(12) Stranger danger investigation, pursuant to rule 5101:2-36-05 of the Administrative Code.

(13) Unruly/delinquent report, as defined in section 2151.022 of the Revised Code or defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall complete an assessment to identify the need for services designed to promote child safety, permanency, and well-being for a child determined to be unruly or delinquent.

(14) ICPC report, pursuant to rule 5101:2-52-04 of the Administrative Code.

(15) Alternative response required non-lead PCSA contacts report, pursuant to rule 5101:2-36-20 of the Administrative Code.

(C) Completion of the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) is required for family in need of services, stranger danger investigations.

(D) Except as provided in paragraph (E) of this rule, completion of the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006) is required for all family in need of services reports transferred for ongoing PCSA services prior to the completion of the case plan pursuant to rule 5101:2-38-01 or 5101:2-38-05 of the Administrative Code.

(E) The following family in need of services report subcategories do not require the completion of a JFS 01400 prior to the completion of the case plan:

(1) Deserted child.

(2) Emancipated youth.

(3) Permanent surrender.

(4) ICPC.

Effective: 03/01/2014
R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 5153.16
Rule Amplifies: 5153.16
Prior Effective Dates: 3/1/06, 10/01/09, 3/01/12

5101:2-36-11 Extending time frames for completion or waiving completion of assessment/investigation activities.

(A) The public children services agency (PCSA) shall request an extension if the PCSA is unable to complete specific assessment/investigative activities pursuant to the time frames established within Chapters 5101:2-36 and 5101:2-37 of the Administrative Code. The justification for extension shall:

(1) Contain written justification for not meeting the established time frame.

(2) Contain supervisory approval of the written justification prior to the expiration of the established time frame.

(3) Be maintained in the case record.

(B) An extension is permitted for the following assessment/investigative activities:

(1) Completion of the JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006). The time frame may be extended until face-to-face contact with each required participant is completed or until the PCSA is required to make a report disposition or final case decision.

(2) Execution of the second attempt to complete face-to-face contact and the JFS 01401 within four working days from the screening decision when all of the following have been recorded in the extension justification prior to the expiration of the fourth working day:

(a) The diligent efforts completed to identify the child's current safety status with a principal of the report or collateral source who has knowledge of the child's current condition, and can provide current and credible information about the child's safety.

(b) The name and location of the individual who provided the credible information about the child's safety, and the manner in which the information was obtained.

(c) The information provided by the principal of the report or collateral source that supports the PCSA's belief that the child is not at risk of being seriously harmed.

(d) Completion of the supervisory approval of the extension request in SACWIS prior to the expiration of the fourth working day.

(3) Obtaining the signature of the parent, guardian, or custodian, or person(s) responsible for an action step on the JFS 01409 "Comprehensive Assessment Planning Model - I.S., Safety Plan for Children" (rev. 2/2006) within twenty-four hours from receipt of the verbal authorization. The time frame of the extension shall not exceed five working days.

(C) A fifteen day extension is permitted to complete the JFS 01400 "Comprehensive Assessment

Planning Model - I.S., Family Assessment" (rev. 7 /2006), JFS 01402 "Comprehensive Assessment Planning Model - I.S., Ongoing Case Assessment/Investigation" (rev. 7/2006), JFS 01403 "Comprehensive Assessment Planning Model - I.S., Specialized Assessment/Investigation" (rev. 2/2006), JFS 01419 "Comprehensive Assessment Planning Model - I.S., Alternative Response Family Assessment" (rev. 7 /2008), JFS 01423 "Comprehensive Assessment Planning Model - I.S., Alternative Response Ongoing Case Assessment " (rev. 7/2008) or to reach a case disposition or case decision if diligent efforts to complete the necessary activities have been unsuccessful and one of the following applies:

(1) A principal of the report has not been interviewed.

(2) The PCSA is waiting on documentation/information from another entity that is necessary in determining the disposition or case decision.

(3) Interviews with collaterals or witnesses who have specific information about the allegations have not been completed.

(4) The case is assigned to the alternative response pathway and additional time is needed to complete the linkage to services prior to case closure.

(D) An extension is permitted to notify the alleged perpetrator in writing of the report disposition if the alleged perpetrator is the subject of a law enforcement investigation into human trafficking. The timeframe for the extension shall not exceed one hundred twenty days from the date the PCSA screened in the referral as a child abuse and/or neglect report.

(E) The PCSA shall complete a request to waive an assessment/investigation activity pursuant to the requirements established within Chapters 5101:2-36 and 5101:2-37 of the Administrative Code if the PCSA is unable to complete specific assessment/investigative activities. The request shall:

(1) Contain written justification of why each assessment/investigation activity can not be completed.

(2) Contain the director's or designee's approval of the written request prior to the termination of the established time frame, or extended time frame, for the assessment/investigation activity.

(3) Be maintained in the case record.

(F) A PCSA may request to waive the following assessment/investigation activities:

(1) Completion of the face-to-face interview with the alleged child victim or child subject of the report.

(2) Completion of the face-to-face interview with each child in the home of the alleged child victim or child subject of the report.

(3) Completion of the face-to-face interview with each adult residing in the home of the alleged child victim or child subject of the report, including the parent(s), guardian, or custodian.

(4) Completion of the face-to-face interview with the alleged perpetrator or adult subject of the report.

(5) Completion of face-to-face or telephone interviews with any identified witnesses and collateral sources.

(6) Completion of the JFS 01400, the JFS 01401, JFS 01402, or JFS 01403 if the report disposition is one of the following:

(a) Family moved: unable to complete assessment/investigation.

(b) Unable to locate.

(7) Completion of the JFS 01401, JFS 01419 or the JFS 01423 if the PCSA has not completed contact with any principal of the report and has been unable to locate the family.

(8) Completion of the JFS 01400, JFS 01401, JFS 01402, or JFS 01403 if all of the following apply:

(a) The PCSA has not successfully gathered sufficient information from any principal of the report, identified witness, or collaterals in order to complete the JFS 01400, JFS 01401, JFS 01402, or JFS 01403.

(b) The parent, guardian, or custodian of the alleged child victim refused the PCSA to have contact with family members, including principals of the report, to complete the required assessment activities.

(c) The PCSA consulted legal counsel regarding the report and the family's refusal to engage in the assessment/investigation process.

(d) The PCSA's legal counsel advised the PCSA no legal action will be pursued.

(e) The PCSA report disposition is unsubstantiated, substantiated, or indicated.

(9) The signature of a parent, guardian, or custodian on the JFS 01409 if all of the following apply:

(a) The PCSA has obtained one signature from a parent, guardian, or custodian on the JFS 01409.

(b) The PCSA determines the parent, guardian, or custodian who has not signed is unable or unavailable to sign the JFS 01409.

(c) The reason(s) why the parent, guardian, or custodian who has not signed is unable or unavailable to sign the JFS 01409 is documented in the case record.

(10) Completion of the JFS 01400, JFS 01401, JFS 01402, JFS 01403, JFS 01419, or JFS 01423 if, upon initiation, the PCSA determines the specific incident alleged in the report has been previously assessed/investigated and all of the following apply:

(a) The report involves the same alleged child victim or child subject of the previous report.

(b) The report involves the same alleged perpetrator or adult subject of the previous report.

(c) The previous report received an alternative response case decision or report disposition of substantiated, indicated or unsubstantiated.

(G) The PCSA shall not complete a justification to waive or extend the completion time frame for any assessment/investigation activity not identified within this rule.

Effective: 7/23/2015
Five Year Review (FYR) Dates: 04/29/2015 and 07/01/2020

Promulgated Under: 119.03
Statutory Authority: 2151.421, 5153.16
Rule Amplifies: 2151.421, 5153.16
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 10/1/97 (Emer.), 12/30/97, 4/1/01, 12/1/01, 6/25/04, 3/01/06, 10/01/09, 3/01/14

5101:2-36-12 PCSA requirement for cross-referring reports of child abuse and/or neglect.

(A) The provisions of rule 5101:2-33-21 of the Administrative Code regarding confidentiality apply to all cross-referrals of child abuse and/or neglect required by this rule.

(B) The public children services agency (PCSA) shall make a cross referral to law enforcement if the report alleges a criminal offense.

(C) The PCSA shall cross refer reports of child abuse and or neglect in accordance with the PCSA's county child abuse and neglect memorandum of understanding, and if applicable, the interagency agreement with a child advocacy center pursuant to section 2151.428 of the Revised Code.

(D) The PCSA shall contact the following licensing and supervising authorities, as applicable, no later than the next working day from the date the referral was screened in to share information pursuant to rules 5101:2-33-21 and 5101:2-36-04 of the Administrative Code:

(1) The Ohio department of developmental disabilities (ODDD) division of developmental centers quality assurance if the report involves a developmental center managed by ODDD; or the office of licensure if the report involves a foster or group home licensed by ODDD.

(2) The local county board of developmental disabilities (DD) if the report involves any program managed by the county board of DD.

(3) The local board of alcohol, drug addiction, and mental health and the Ohio department of mental health (ODMH) if the report involves a residential care facility licensed by ODMH.

(4) The Ohio department of youth services' (ODYS) chief inspector if the report involves an institution or facility for delinquent children managed by ODYS; or the juvenile judge and ODYS' division of parole, courts, and community services if the report involves a detention or rehabilitation facility managed by a juvenile court and approved by ODYS.

(5) The superintendent of the local schools or the Ohio department of education's (ODE) legal counsel if the report involves the school for the deaf or blind or early education programs managed by ODE .

(6) The Ohio department of job and family services (ODJFS), children services licensing, if the report involves a foster home, group home or children's residential facility licensed by ODJFS.

(7) The ODJFS, child care licensing, if the report involves a child care center (more than twelve children) or a type A family child care home which is or should be licensed by ODJFS.

(8) The local county department of job and family services (CDJFS) if the report involves an in-home aide who is certified by the CDJFS or a type B family child care certified or licensed by the CDJFS.

Effective: 03/01/2014

R.C. 119.032 review dates: 01/01/2017
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 2/1/82, 10/1/82, 1/1/87, 1/1/88, 3/15/88, 1/1/90, 10/1/95, 6/1/96, 6/1/97, 4/1/01, 3/1/06, 10/01/09, 3/01/12

5101:2-36-13 Intrastate and interstate referral procedures for children's protective services.

(A) A public children services agency (PCSA) shall complete an intrastate referral to another PCSA if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside or have moved to another county before an assessment/investigation has been initiated.

(1) If an emergency exists, the PCSA shall immediately telephone the appropriate PCSA and provide the referral information.

(2) If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours.

(3) The referral information provided to the PCSA shall include, but is not limited to, the following:

(a) The case identification number established within the statewide automated child welfare information system (SACWIS).

(b) The case reference person established within SACWIS.

(c) The intake identification number established within SACWIS, as applicable.

(d) Location, including the address, of the child and his or her custodial parent, legal guardian, or legal custodian.

(B) A PCSA shall complete an intrastate referral to another PCSA if the PCSA initiates an abuse or neglect report and determines the alleged child victim and his or her custodial parent, legal guardian, or legal custodian reside in another county.

(1) The PCSA shall immediately telephone the appropriate PCSA if an emergency exists to inform of the report and the information obtained as a result of the initiation or other contacts. If no emergency exists, the PCSA shall telephone the appropriate PCSA within twenty-four hours.

(2) The PCSA receiving the intrastate referral shall determine one of the following:

(a) A case transfer shall be accepted regarding the current report. The receiving PCSA becomes the lead agency and is responsible for the completion of the assessment/investigation activities including arriving at a report disposition and case decision.

(b) A case transfer shall not be accepted. The PCSA that initiated the report shall remain the lead agency and retain responsibility for the completion of the assessment/investigation, including completing requests for required non-lead interviews.

(C) A PCSA shall make an intrastate referral to another PCSA if the PCSA determines that protective services are needed but the child and his or her custodial parent, legal guardian, or legal custodian moves to another county before or during the provision of protective services and the child remains at risk of abuse or neglect.

(D) A PCSA shall make an interstate referral to a children's services agency (CSA) if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside in or have moved to another state. The PCSA shall comply with the following procedures if making a referral to a CSA:

(1) If an emergency exists, the PCSA shall immediately telephone the appropriate CSA with the referral information. Within three working days of the date of the telephone referral, the PCSA shall follow-up with a written referral to the CSA.

(2) If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours. Within three working days of the date of the telephone referral, the PCSA shall follow-up the telephone referral with a written referral to the CSA.

(3) The referral shall include, but is not limited to, the following:

(a) All available identifying information on the child, his or her parent, guardian, or custodian and other involved people, including names, dates of birth, ages, and social security numbers.

(b) The child, his or her parent, guardian, or custodian and other involved persons' relationships to each other.

(c) Location, including address of the child and his or her parent, guardian or custodian.

(d) Summary of the referring PCSA's involvement with the child, his or her parent, guardian, or custodian and the current case status.

(e) A copy of the completed JFS 01401 "Comprehensive Assessment Planning Model - I..S., Safety Assessment" (rev. 2/2006) and the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006), or JFS 01419 "Alternative Response Family Assessment" (rev. 7/2008) if applicable.

(f) The nature of the request for the provision of protective services.

(g) The referring PCSA contact person.

(h) The information the referring PCSA needs in response to the referral.

(4) Confidential information regarding the child, his or her parent, guardian, or custodian may be released to CSA pursuant to rule 5101:2-33-21 of the Administrative Code.

(5) The PCSA shall cooperate with the CSA, and if necessary, lead the assessment/investigative efforts if the child is located within Ohio and the abuse or neglect is alleged to have occurred within Ohio.

Effective: 03/01/2014
R.C. 119.032 review dates: 11/01/2016
Promulgated Under: 119.03

Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 1/1/87, 1/1/88, 4/1/01, 3/01/06, 10/01/09

5101:2-36-14 Protective service alert.

(A) A public children services agency (PCSA) shall issue a protective service alert (PSA) if either of the following occurs:

(1) The PCSA receives an abuse or neglect report, the whereabouts of a child or his or her parent, guardian, or custodian are unknown, and the PCSA has reason to believe the child is in immediate danger of serious harm.

(2) The PCSA determines that protective services are needed, the whereabouts of the child or his or her parent, guardian, or custodian are unknown and the PCSA has reason to believe the child remains at risk of abuse or neglect.

(B) The PCSA shall create a PSA in the statewide automated child welfare information system (SACWIS) and specify whether the PSA is to be processed as an in-state or out of state alert.

(C) Upon creation of a PSA, the PCSA issuing the PSA shall be referenced as the originating PCSA.

(D) A non-originating PCSA shall notify the originating PCSA no later than the next working day if a person(s) with an active PSA has been located and document the notification in the case record.

(E) Upon receipt of the notification that a person has been located, the originating PCSA shall cancel the PSA.

(F) A PSA will expire in ninety days from the issue date.

(G) The originating PCSA shall complete a PSA extension prior to the expiration of the PSA if the PCSA determines the child remains in immediate danger of serious harm . Each PSA extension will expire ninety days from the issue date.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 2151.421
Rule Amplifies: 2151.421
Prior Effective Dates: 1/1/87, 12/17/94, 4/1/01, 3/01/06, 10/01/09

5101:2-36-20 Public children services agencies assessment requirements for child abuse and neglect reports in alternative response.

(A) This rule applies to public children services agencies (PCSAs) that received training and written approval from the Ohio department of job and family services (ODJFS) to implement alternative response.

(B) The PCSA shall initiate the screened in child abuse and neglect report assigned to the alternative response pathway in accordance with the following:

(1) For an emergency report, attempt a face-to-face contact with the child subject of the report within one hour from the time the referral was screened in as a report in order to assess child safety.

(2) For all other reports, complete one of the following activities, within twenty-four hours from the time the referral was screened in as a report, with a principal of the report or collateral source, who has knowledge of the child's current condition and can provide current information about the child's safety:

(a) Attempt a face-to-face contact with the parent, child or collateral source.

(b) Attempt a telephone contact with the parent or collateral source.

(c) Send a letter to the parent, guardian, or custodian acknowledging a report was received and inviting the family to engage with the PCSA.

(C) The PCSA shall advise the parent, guardian, or custodian of the information contained in the report at the time of the initial contact. The initial contact between the PCSA and the parent, guardian, or custodian includes face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment process.

(D) The PCSA shall document in the case record the date, time, and with whom the assessment was initiated. For all reports initiated by the mailing of a letter, the date the letter is mailed shall be documented in the case record.

(E) The PCSA shall complete and document the JFS 01401, "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-01 of the Administrative Code.

(1) The PCSA shall attempt face-to-face contact with the child subject of the report and a parent,guardian, custodian, or caregiver within the first four working days from the date the report was screened in as an abuse or neglect report.

(2) If the PCSA's attempt to complete face-to-face contact pursuant to paragraph (E)(1) of this rule is unsuccessful, the PCSA shall attempt at least one additional face-to-face contact within the first four working days from the date that the referral was screened in as a report.

(F) If the initial attempted face-to-face contacts with the child subject of the report and caretaker, as specified in paragraphs (B) and (E) of this rule are unsuccessful, the PCSA shall at a minimum continue making attempts of face-to-face contact at least every five working days until the child subject of the report and caretaker are seen or until the PCSA is required to complete a case decision pursuant to paragraph (T) or (U) of this rule.

(G) The PCSA shall not contact a child subject of the report or his or her siblings without parental consent, unless one of the following exigent circumstances exists:

(1) There is credible information indicating the child is in immediate danger of serious harm.

(2) There is credible information indicating the child will be in immediate danger of serious harm upon return home from school or other locations away from his or her home.

(3) There is credible information indicating the child may be intimidated from discussing the alleged abuse or neglect in his or her home.

(4) The child requests to be contacted at school or another location due to one of the circumstances listed above.

(H) If a child is contacted without parental consent, then the same day, the PCSA shall attempt a face-to-face contact or complete telephone contact with the child's parent, guardian, or custodian to inform them that contact with his or her child occurred and provide the specific facts necessitating the child be contacted without parental consent.

(I) The specific facts necessitating contact with the child be completed without parental consent shall be documented in the case record.

(J) If the attempt to contact the child's custodian pursuant to paragraph (H) of this rule is unsuccessful, the PCSA shall continue to attempt to complete face-to-face contact with the child's parent, guardian or custodian once every five working days until contact is made with the child's parent, guardian, or custodian, or until the PCSA is required to make a case decision pursuant to paragraph (T) or (U) of this rule.

(K) The PCSA shall complete and document face-to-face contacts with each child residing within the home of the child(ren) who were the subject of the report.

(L) The PCSA shall complete and document face-to-face contacts with all adults residing within the home of the child(ren) who were the subject of the report.

(M) If the attempted face-to-face contacts with the family, as specified in paragraphs (K) and (L) of this rule are unsuccessful, the PCSA shall continue making attempts of face-to-face contact at least every five working days, at a minimum, until the child is seen or until the PCSA is required to complete a case decision pursuant to paragraph (T) of this rule.

(N) The PCSA shall convert a case from the alternative response pathway to the traditional response pathway if any of the following occur:

(1) The family requests a pathway change from the alternative response pathway to the traditional response pathway.

(2) The JFS 01401, JFS 01419 "Comprehensive Assessment Planning Model - I.S., Alternative Response Family Assessment" (rev. 7/2008), or JFS 01423 "Comprehensive Assessment Planning Model - I.S., Alternative Response Ongoing Case Assessment" (rev. 7/2008) cannot be completed because the family refused to engage in the assessment process .

(3) The PCSA files a complaint with the juvenile court pursuant to section 2151.27 of the Revised Code alleging the child is abused, neglected or dependent child.

(4) The PCSA screens in a report requiring assignment in a traditional response pathway pursuant to paragraph (I) of rule 5101:2-36-01 of the Administrative Code.

(O) The PCSA shall record a pathway switch in SACWIS no later than the next working day from the date of the event triggering the conversion of a case from the alternative response pathway to the traditional response pathway.

(P) The PCSA shall notify the principals of the report of the pathway change either verbally or in writing

within three working days upon the conversion of a case from the alternative response pathway to the traditional response pathway if the pathway switch is not the result of a subsequent report received and assigned to the traditional response pathway. the notification(s) shall be documented.

(Q) If the PCSA determines a child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.

(R) The PCSA shall conduct and document face-to face or telephone contact with any person identified as a possible source of information during the assessment to obtain relevant information regarding the safety of and risk to the child. The PCSA shall exercise discretion in the selection of collateral sources to protect the family's right to privacy.

(S) If two or more PCSAs are involved in an assessment, the lead county shall be determined by the following criteria:

(1) The PCSA located within the county where the parent, guardian, custodian of the child subject of the report resides.

(2) If an order of shared parenting has been issued, and a residential parent has not been designated by the court, the PCSA located within the county of residence of the custodian who has physical care of the child subject of the report at the time the incident occurred.

(T) If requested by the lead PCSA, either verbally or in writing, the non-lead PCSA located in a non-contiguous county shall conduct interviews of any principals of the report and collateral sources presently located within its jurisdiction to provide the lead agency with the information necessary to complete the JFS 01401, 01419, and/or 01423 within the time frames outlined in this rule. All PCSAs involved shall document the request in the case record.

(U) The PCSA shall have an interpreter present for all interviews when the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.

(V) The PCSA shall make a case decision by completing the JFS 01419 pursuant to rule 5101:2-37-03 of the Administrative Code no later than forty-five days from the date the PCSA screened in the referral as a report.

(1) The PCSA may extend the time frame for completion of the JFS 01419 pursuant to rule 5101:2-36-11 of the Administrative Code with written justification and supervisory approval. The time frame for extension shall not exceed fifteen days.

(2) The JFS 01419 shall be entered in SACWIS within three working days from the date of the case decision.

(W) If the child abuse and/or neglect report involves a family member receiving services after the completion of the JFS 01419, the PCSA shall make the final case decision by completing the JFS 01423 pursuant to rule 5101:2-37-03 of the Administrative Code.

(X) If the case decision is to transfer the case for ongoing PCSA services, and the case will continue to be assigned to the alternative response pathway, the agency shall provide ongoing services to the family pursuant to rule 5101:2-38-20 of the Administrative Code.

(Y) Within two working days of completion of the assessment, the PCSA shall do all of the following:

(1) Notify the parent, guardian, or custodian of the final case decision in writing.

(2) Refer to "Help Me Grow" any infant born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(3) Notify the child's non-custodial parent, who holds residual parental rights to the child and maintains an ongoing relationship through visitation with the child and/or payment of child support, of the receipt of the report, and the case decision.

(Z) Documentation of the alternative response assessment, including any materials obtained during the assessment, shall be maintained in the case record.

(AA) The PCSA may extend time frames for completion or waive assessment activities pursuant to rule 5101:2-36-11 of the Administrative Code.

Effective: 03/01/2014
R.C. 119.032 review dates: 07/01/2016
Promulgated Under: 119.03
Statutory Authority: 5153.166, 2151.429
Rule Amplifies: 2151.429, 5153.16
Prior Effective Dates: 07/01/11

5101:2-44-14 State adoption assistance loan fund.

(A) The state adoption assistance loan fund provides loans to prospective adoptive parents residing in Ohio to cover adoption expenses incurred by, or on behalf of, a prospective adoptive parent and for which the prospective adoptive parent carries the ultimate liability for payment. This rule does not apply to step-parent adoptions.

(B) The state adoption assistance loan fund will be administered through a financial institution or institutions approved by the Ohio department of job and family services (ODJFS). The financial institution or institutions shall set the loan repayment terms, the procedures for collection of loan arrearages, and any monetary penalties for loan arrearages or improper use of loan funds.

(C) If the child being adopted resides in Ohio, the prospective adoptive parents may receive up to three thousand dollars from the state adoption assistance loan fund.

(D) If the child being adopted does not reside in Ohio, the prospective adoptive parents may receive up to two thousand dollars from the state adoption assistance loan fund.

(E) The public children services agency (PCSA), private child placing agency (PCPA) or private non-custodial agency (PNA) shall inform prospective adoptive parents who inquire about adoption services through the agency that the state adoption assistance loan is available.

(F) In order to be eligible for a state adoption assistance loan, a prospective adoptive parent shall meet the following requirements at the time of application:

(1) Have one of the following approved homestudies:

(a) A JFS 01673 "Assessment for Child Placement (Homestudy)" (rev. 6/2011) or equivalent for children adopted from another state.

(b) A JFS 01692 "Application for Adoption of a Foster Child" (rev. 06/2009).

(c) A copy of a homestudy narrative report in the case of an international adoption.

(2) Have been matched with an identified child who is legally free for adoption and who will be adopted prior to their eighteenth birthday.

(3) Have applied for the state adoption assistance loan prior to finalization of the adoption.

(G) In addition to the requirements outlined in paragraph (F) of this rule, a prospective adoptive parent must also meet the requirements of the financial institution administering the state adoption assistance loan fund.

(H) If a prospective adoptive parent is interested in applying for a state adoption assistance loan, the PCSA, PCPA or PNA shall provide the prospective adoptive parent with documentation, on agency letterhead, indicating the requirements outlined in paragraph (F) of this rule have been met.

(I) In the case of a private or an international adoption, the prospective adoptive parent shall obtain the documentation outlined in paragraph (F) of this rule from the agency which completed their homestudy.

(J) Once the prospective adoptive parent has obtained the required documentation from the PCSA, PCPA or PNA, the prospective adoptive parent shall:

(1) Provide the documentation to the financial institution.

(2) Complete the financial institution's application for the state adoption assistance loan.

(K) The state adoption assistance loan shall be used for adoption services which are reasonable and necessary such as adoption fees, court costs, attorney fees, and other expenses directly related to the legal adoption of a child as defined in paragraph (L) of this rule. These expenses cannot be incurred in violation of state or federal law and cannot be reimbursed from other sources or funds.

(L) Other adoption expenses directly related to the legal adoption of a child 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 can include, but are not limited to, costs related to:

(1) The adoption homestudy.

(2) Health and psychological examinations.

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

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

Effective: 09/15/2014
R.C. 119.032 review dates: 05/28/2014 and 09/01/2019
Promulgated Under: 119.03
Statutory Authority: 3107.018, 5101.143
Rule Amplifies: 3107.018, 5101.143
Prior Effective Dates: 7/1/11

5101:2-49-03 Special needs criteria for adoption assistance.

(A) Prior to the finalization of adoption, the public children services agency (PCSA) shall determine that all of the following special needs criteria have been met and documented in the child's adoption assistance (AA) case record in order for the child to be considered a child with special needs.

(1) The child cannot or should not be returned to his or her parent(s). This requirement is met when the child is legally available for adoption.

(2) The PCSA has determined that the child has one or more of the following special need factors or conditions making it difficult to place the child with an adoptive parent(s) without the provision of adoption assistance (AA) or medical assistance:

(a) The child is part of a sibling group being adopted together or is placed in the same adoptive placement of a sibling previously adopted.

(b) The child is a member of a minority, racial or ethnic group making it difficult to place the child for adoption. However, if the child is between the age of newborn and twelve months the child must be also diagnosed to have one of the conditions outlined in paragraph (A)(2)(g) or (A)(2)(h) of this rule.

(c) The child is six years old or older.

(d) The child has remained in the permanent custody of a PCSA or private child placing agency (PCPA) for more than one year before an adoptive placement.

(e) The child has been in the home of the prospective adoptive parent(s) for at least six consecutive months directly preceding the adoptive placement and the child would experience severe separation and loss if placed in another setting due to significant ties with the propsective adoptive parent(s). The emotional ties shall be assessed and documented by a qualified mental health professional.

(f) The child has experienced a previous adoption disruption or three or more substitute care placements while in the custody of a PCSA or PCPA.

(g) The child has been diagnosed by a qualified professional, in the professional's area of expertise who is not responsible for providing casework services to the child. For the purpose of this rule, a "qualified professional" is an audiologist, orthopedist, physician, psychiatrist, psychologist, licensed marriage and family therapist, speech and language pathologist, a licensed independent social worker, licensed professional clinical counselor, a licensed social worker who is under the direct supervision of a licensed independent social worker or a licensed professional counselor who is under the direct supervision of a licensed professional clinical counselor.

The qualified professional must provide a clear written statement, supported by an assessment or evaluation within the last twelve months. This statement shall include an opinion as to the origin of the problem, past history, prognosis, and recommendations related to potential treatment needs that the child has been diagnosed with one of the following:

(i) A developmental disability, as defined in rule 5123:2-1-02 of the Administrative Code.

(ii) A developmental delay, as defined in section 5123.01 of the Revised Code.

(iii) Mental illness, as defined in section 5122.01 of the Revised Code.

(iv) A medical condition causing distress, pain, dysfunction, social problems or death as diagnosed by a qualified professional.

(h) The child or the child's biological family has a social or medical history establishing a substantial risk for developing one of the conditions as described in paragraph (A)(2)(g) of this rule. The substantial risk makes it difficult to place the child for adoption without the provision of AA. A qualified professional shall determine the substantial risk, as defined in paragraph (B) of this rule. A child is not at substantial risk if the child's biological parent(s) social and medical history cannot be determined.

(3) Reasonable, but unsuccessful, efforts to place the child without AA shall be met by one of the following:

(a) Except as described in paragraph (A)(3)(b) of this rule, the PCSA shall document that in each case a reasonable, but unsuccessful, effort was made to place the child with appropriate adoptive parent(s) without AA. This requirement can be met by posing the question of whether the adoptive parent(s) are willing to adopt without AA. If the adoptive parent(s) state they cannot adopt the child without AA, the requirement is met when documented in the AA case record.

(b) The placement with a particular adoptive parent(s) was in the best interest of the child because of such factors as:

(i) The existence of emotional ties with the prospective adoptive parent(s) while the child was in the care of the foster parent(s) as a foster child.

(ii) The prospective adoptive parent(s) is a relative.

(iii) The child is being adopted by an adoptive parent(s) of the child's sibling(s).

(iv) There are other circumstances that relate to the child's best interest.

(B) 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 or condition, a JFS 01453 "Adoption Assistance Agreement" (rev. 1/2014) with no payment shall be entered into in accordance with rule 5101:2-49-07 of the Administrative Code. The PCSA shall document the following in the child's AA case record:

(1) The substantial risk as diagnosed by a qualified professional at the time of the special needs determination. A "substantial risk" means a strong probability that a certain result may occur or that certain circumstances may exist.

(2) A qualified professional in the field of their expertise has provided the PCSA with a current written statement of the child's substantial risks of developmental disability, developmental delay, mental illness, or medical condition causing distress, pain, dysfunction, social problems or death, supported by an assessment or evaluation. This statement shall include an opinion as to the origin of the problem, past history, prognosis, and recommendations related to potential treatment needs as described in paragraph (A)(2)(g) of this rule.

Replaces: 5101:2-49-03

Effective: 07/01/2014
R.C. 119.032 review dates: 07/01/2019
Promulgated Under: 119.03
Statutory Authority: 5101.141
Rule Amplifies: 5101.11
Prior Effective Dates: 1/1/83, 4/1/86 (Emer.), 7/1/86, 7/2/87, 9/1/88, 9/1/92, 5/1/98, 1/1/07, 4/1/10, 12/15/11

5101:2-49-05 Determination of the adoption assistance monthly payment amount.

(A) The monthly amount of the Title IV-E adoption assistance (AA) payment is determined by negotiation and mutual agreement between the adoptive parent(s) and the public children services agency (PCSA).

(B) No income eligibility test shall be used when determining the monthly AA payment. The monthly AA payment amount should combine with the adoptive parent(s) resources and circumstances of the adoptive family and shall provide for the special and anticipated needs of the child projected over an extended period of time. The child's supplemental security income (SSI) benefits shall be considered along with the adoptive parent(s) resources in the negotiation and determination of the AA payment amount. The special needs of the child shall be based upon rule 5101:2-49-03 of the Administrative Code.

(C) The maximum amount of the monthly AA payment shall not exceed the current cost of the monthly foster care maintenance (FCM) payment that was paid or would have been paid by the PCSA if the child had been placed in a foster home.

(D) The monthly AA payment identified in paragraph (C) of this rule shall not exceed the monthly statewide maximum AA payment amount established by the Ohio department of job and family services (ODJFS) through the "Family, Children and Adult Services Manual Procedure Letter."

(E) Upon the effective date of this rule, a PCSA may request from ODJFS a waiver to exceed the monthly statewide maximum AA payment amount when the PCSA determines it is in the best interest of the child.

(1) The PCSA shall submit a completed JFS 01471 "Waiver request to exceed the Title IV-E Adoption Assistance Statewide Maximum" (1/2014) to the office of families and children. The amount the PCSA agrees to pay in excess of the statewide maximum AA payment shall not exceed the monthly FCM payment amount in accordance with paragraph (C) of this rule.

(2) Notification of approval or denial of the waiver request will be made within ten business days of receipt of the JFS 01471. The approval or denial of a waiver is a final determination and does not grant the PCSA state hearing rights under section 5101.35 of the Revised Code or Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.

(3) Upon approval of the waiver, the AA payment amount in excess of the statewide maximum shall be effective the month following the waiver approval date.

(F) Any monthly AA payment amount in excess of the statewide maximum, prior to the effective date of this rule, shall remain in effect and shall continue to receive federal financial participation (FFP) up to the current FCM payment for a child in the same level of care.

(G) If the child receives SSI benefits, the child may receive AA and SSI concurrently. If there is concurrent receipt of payments from both programs, the social security administration will decrease the monthly SSI benefit by the monthly AA payment amount.

(H) If the PCSA and the adoptive parent(s) cannot mutually agree on the monthly AA payment amount after thirty calendar days from the initial negotiation meeting, the adoptive parent(s) may request a state mediation conference using the JFS 01470 "Adoption Assistance State Mediation Conference Request" (rev.1/2014) to develop a mutually acceptable level of monthly AA payment amount after thirty calendar days from the initial negotiation meeting. The JFS 01470 shall be sent to the ODJFS state hearings department.

(1) The state mediation conference shall be held within thirty business days from the receipt of the request.

(2) The state mediator, PCSA representative(s) and adoptive parent(s) shall be the sole participants in the state mediation conference.

(3) If the state mediation conference is successful and results in a mutually acceptable monthly AA payment amount, it is considered a final decision between both parties.

(4) The monthly AA payment amount agreed upon at the state mediation conference can only be amended if a new documented special needs of the child is identified or resources and circumstances of the adoptive family change from what was subject to the state mediation conference.

(5) If the PCSA and the adoptive parent(s) cannot mutually agree on a monthly AA payment amount at the state mediation conference, the adoptive parent(s) may request a state hearing.

(I) The PCSA shall document the following in the statewide automated child welfare information system (SACWIS):

(1) Initial agreed upon monthly AA payment amount.

(2) If applicable, the outcome of the state mediation conference, state hearing and administrative appeal.

(J) The PCSA shall not consider the race, color, or national origin of an adoptive parent(s) or of the child for whom a family has indicated an interest in adopting, when negotiating the AA agreement.

Replaces: 5101:2-49-05

Effective: 07/01/2014
R.C. 119.032 review dates: 07/01/2019
Promulgated Under: 119.03
Statutory Authority: 5101.141, 5103.03, 5153.16
Rule Amplifies: 5101.11, 5101.141, 5103.03, 5153.16
Prior Effective Dates: 1/1/83, 1/1/85 (Emer.), 4/1/85 (Emer.), 8/12/85, 4/1/86 (Emer.), 7/1/86, 10/9/86 (Emer.), 1/1/87, 7/2/87, 9/1/89 (Emer.), 11/30/89, 1/13/92 (Emer.), 4/11/92, 9/1/92, 3/20/93, 5/1/98, 1/1/07

5101:2-49-07 Adoption assistance agreement only with no payment.

(A) The public children services agency (PCSA) shall enter into a JFS 01453 "Adoption Assistance Agreement" (rev. 1/2014) without a Title IV-E adoption assistance (AA) payment if any of the following apply:

(1) The adoptive parent(s) and the PCSA, after considering the needs of the child and the circumstances of the adoptive family, agree that the adoptive family does not currently require an AA payment to incorporate the child into household.

(2) The child or the child's biological family has a social or medical history that establishes a substantial risk of acquiring conditions, as identified in rule 5101:2-49-03 of the Administrative Code.

(3) The child has reached the age of eighteen and has not been determined to meet the eligibility requirements for continuation of AA as set forth in paragraph (A) of rule 5101:2-49-04 of the Administrative Code.

(B) An AA agreement with no payment shall include the following provisions:

(1) The child is eligible for AA, but there is no monthly payment in effect because of the determination set forth in paragraph (A) of this rule.

(2) The adoptive parent(s) may request amendment of the AA agreement to include AA payments if the child develops a condition, and the condition is diagnosed by a qualified professional, as identified in rule 5101:2-49-03 of the Administrative Code.

(3) Title XX (social services block grant) and post adoption services shall be provided or secured in addition to Title XIX (medicaid) coverage for a child that has an AA agreement with no payment.

(4) All of the remaining conditions of the JFS 01453 as set forth in rule 5101:2-49-10 of the Administrative Code apply including reimbursement of nonrecurring adoption expenses, categorical eligibility for Title XIX medical assistance and Title XX social services and the right of appeal through a state hearing.

Replaces: 5101:2-49-07

Effective: 07/01/2014
R.C. 119.032 review dates: 03/14/2014 and 07/01/2019
Promulgated Under: 119.03
Statutory Authority: 5101.141
Rule Amplifies: 5101.11
Prior Effective Dates: 9/1/92, 5/1/98, 1/1/07, 4/1/10, 12/15/11

5101:2-49-10 Ongoing verification for adoption assistance.

(A) The public children services agency (PCSA) responsible for the Title IV-E adoption assistance (AA) agreement shall provide the adoptive parent(s) with the JFS 01451B "Title IV-E Adoption Assistance annual assurance of legal responsibility, school attendance and eligibility for continued Medicaid coverage " (rev. 1/2014) annually or whenever there is a significant change in the family situation.

(B) For a child who has attained the minimum age for compulsory school attendance the PCSA shall assure that the child's AA case record contains documentation of one of the following:

(1) A child is enrolled full-time, or in the process of enrolling in an institution providing elementary or secondary education.

(2) A child is instructed in elementary or secondary education at home full-time in accordance with the home school law of the state where the home is located.

(3) A child is in an independent study elementary or secondary education program full-time in accordance with the law of the state where the program is located, which is administered by the local school or school district.

(4) A child is incapable of attending school on a full-time basis due to the medical condition of the child, and the incapability is supported by regularly updated information in the AA case record of the child.

(C) Title IV-E agencies are not required to verify school attendance for a child age eighteen to twenty-one, unless the reason the child is continuing to receive AA past age eighteen is because pursuant to paragraph (B)(4) of rule 5101:2-49-04 of the Administrative Code.

(D) The adoptive parent(s) shall notify the PCSA within fifteen calendar days of the date of a change if:

(1) The child reaches the age of eighteen, or twenty-one if the child is mentally or physically disabled pursuant to rule 5101:2-49-04 of the Administrative Code.

(2) The child has married or enlisted in the military service.

(3) The child's primary health care insurance coverage changes from medicaid to private health care insurance. The adoptive parent(s) shall complete a JFS 06612 "Health Insurance Information Sheet" (rev. 5/2001) as a result of this change.

(4) The adoptive parent(s) is no longer supporting the child.

(5) The adoptive parent's parental rights have been terminated by a court of competent jurisdiction or permanently surrendered to a PCSA or private child placing agency (PCPA).

(6) The family moves or the child established his or her own residence.

(7) The child dies.

(E) The adoptive parent(s) must be supporting the child. An adoptive parent(s) is supporting the child if the adoptive parent(s) provides the child with shelter, food, clothing, child support, or any support regardless of the physical location of the child. A parent is generally responsible for the support of a child who is under the age of eighteen or a physically and/or mentally disabled child with special needs who is under twenty-one years old.

(F) A parent is not legally required to support the child if the child is emancipated. A child becomes emancipated if:

(1) The child enlists in the military services.

(2) The child marries.

(3) The child has been determined to be an emancipated minor by a court of competent jurisdiction or the state of residence.

(4) The child is self-supporting by paying for shelter, food, and clothing even though he or she may still reside with the adoptive parent(s).

(G) If the child no longer meets the requirements for AA, the PCSA shall terminate the AA agreement pursuant to rule 5101:2-49-13 of the Administrative Code.

Effective: 07/01/2014
R.C. 119.032 review dates: 03/14/2014 and 07/01/2019
Promulgated Under: 119.03
Statutory Authority: 5101.141
Rule Amplifies: 5101.11
Prior Effective Dates: 1/1/83, 4/1/86 (Emer.), 7/1/86, 7/2/87, 9/1/88, 5/1/94, 5/1/98, 1/1/07, 4/1/10, 12/15/11

"(1) In general.—The amendments made by this section [amending sections 37 [now 22], 41 [now 24], 44A [now 21], 46, 53, 85, 105, 128, 403, 415, 904, and 7871 of this title] shall apply to taxable years beginning after December 31, 1983.

"(2) Transitional rule.—If an individual's annuity starting date was deferred under section 105(d)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect on the day before the date of the enactment of this section [Apr. 20, 1983]), such deferral shall end on the first day of such individual's first taxable year beginning after December 31, 1983."

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97–34, set out as a note under section 911 of this title.

Effective Date of 1978 Amendment

Section 701(a)(4) of Pub. L. 95–600 provided that:

"(A) The amendments made by paragraphs (1) and (2) [amending this section] shall apply to taxable years beginning after December 31, 1975.

"(B) The amendments made by paragraph (3) [amending this section] shall apply to taxable years beginning after December 31, 1977."

Effective Date of 1976 Amendment

Amendment by Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1975, see section 508 of Pub. L. 94–455, set out as a note under section 3 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–406 effective Jan. 1, 1974, see section 2002(i)(2) of Pub. L. 93–406, set out as an Effective Date note under section 4973 of this title.

Effective Date of 1964 Amendment

Amendment by section 113(a) of Pub. L. 88–272, except for purposes of section 21 [now 15] of this title, effective with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88–272, set out as a note under section 1 of this title.

Section 201(e) of Pub. L. 88–272 provided that: "The amendments made by subsection (a) [amending section 34 of this title] shall apply with respect to taxable years ending after December 31, 1963. The amendment made by subsection (b) [repealing section 34 of this title] shall apply with respect to taxable years ending after December 31, 1964. The amendment made by subsection (c) [amending section 116 of this title] shall apply with respect to taxable years beginning after December 31, 1963. The amendments made by subsection (d) [amending sections 35, 37 [now 22], 46, 116, 584, 642, 702, 854, 857, 871, 1375, and 6014 of this title] shall apply with respect to dividends received after December 31, 1964, in taxable years ending after such date".

Section 202(b) of Pub. L. 88–272 provided that: "The amendments made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1963."

Effective Date of 1962 Amendments

Section 2 of Pub. L. 87–876 provided that: "The amendment made by the first section of this Act [amending this section] shall apply only to taxable years ending after the date of the enactment of this Act [Oct. 24, 1962]."

Section 8 of Pub. L. 87–792 provided that: "The amendments made by this Act [enacting sections 405 and 6047 of this title and amending sections 37 [now 22], 62, 72, 101, 104, 105, 172, 401 to 404, 503, 805, 1361, 2039, 2517, 3306, 3401 and 7207 of this title] shall apply to taxable years beginning after December 31, 1962."

Effective Date of 1956 Amendment

Section 2 of act Jan. 28, 1956, provided that: "The amendment made by the first section of this Act [amending this section] shall apply only with respect to taxable years beginning after December 31, 1955."

Effective Date of 1955 Amendment

Section 2 of act Aug. 9, 1955, provided that: "The amendment made by this Act [amending this section] shall be applicable to taxable years beginning after December 31, 1954."

Determination of Retirement Income Credit Under Provisions as They Existed Prior to Amendment by Pub. L. 94–455 Election

Pub. L. 95–30, title IV, §403, May 23, 1977, 91 Stat. 155, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) to determine the amount of his credit under section 37 [now 22] of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for his first taxable year beginning in 1976 under the provisions of such section as they existed before the amendment made by section 503 of the Tax Reform Act of 1976 [Pub. L. 94–455]."

§ 23. Adoption expenses

(a) Allowance of credit

(1) In general

In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

(2) Year credit allowed

The credit under paragraph (1) with respect to any expense shall be allowed—

(A) in the case of any expense paid or incurred before the taxable year in which such adoption becomes final, for the taxable year following the taxable year during which such expense is paid or incurred, and

(B) in the case of an expense paid or incurred during or after the taxable year in which such adoption becomes final, for the taxable year in which such expense is paid or incurred.

(3) $10,000 credit for adoption of child with special needs regardless of expenses

In the case of an adoption of a child with special needs which becomes final during a taxable year, the taxpayer shall be treated as having paid during such year qualified adoption expenses with respect to such adoption in an amount equal to the excess (if any) of $10,000 over the aggregate qualified adoption expenses actually paid or incurred by the taxpayer with respect to such adoption during such taxable year and all prior taxable years.

(b) Limitations

(1) Dollar limitation

The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $10,000.

(2) Income limitation

(A) In general

The amount allowable as a credit under subsection (a) for any taxable year (determined without regard to subsection (c)) shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

(i) the amount (if any) by which the taxpayer's adjusted gross income exceeds $150,000, bears to

(ii) $40,000.

(B) Determination of adjusted gross income

For purposes of subparagraph (A), adjusted gross income shall be determined without regard to sections 911, 931, and 933.

(3) Denial of double benefit

(A) In general

No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

(B) Grants

No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

(4) Limitation based on amount of tax

In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.

(c) Carryforwards of unused credit

(1) Rule for years in which all personal credits allowed against regular and alternative minimum tax

In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

(2) Rule for other years

In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by subsection (b)(4) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

(3) Limitation

No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

(d) Definitions

For purposes of this section—

(1) Qualified adoption expenses

The term ''qualified adoption expenses'' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer,

(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,

(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse, and

(D) which are not reimbursed under an employer program or otherwise.

(2) Eligible child

The term ''eligible child'' means any individual who—

(A) has not attained age 18, or

(B) is physically or mentally incapable of caring for himself.

(3) Child with special needs

The term ''child with special needs'' means any child if—

(A) a State has determined that the child cannot or should not be returned to the home of his parents,

(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and

(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

(e) Special rules for foreign adoptions

In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

(f) Filing requirements

(1) Married couples must file joint returns

Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

(2) Taxpayer must include TIN

(A) In general

No credit shall be allowed under this section with respect to any eligible child unless

the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

(B) Other methods

The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

(g) Basis adjustments

For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

(h) Adjustments for inflation

In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(3) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ''calendar year 2001'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

(i) Regulations

The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar amounts in subsections (a)(3) and (b)(1) of this section and in section 137(b)(1).

(Added Pub. L. 104–188, title I, § 1807(a), Aug. 20, 1996, 110 Stat. 1899, § 23; amended Pub. L. 105–34, title XVI, § 1601(h)(2)(A), (B), Aug. 5, 1997, 111 Stat. 1092; Pub. L. 105–206, title VI, §§ 6008(d)(6), 6018(f)(1), July 22, 1998, 112 Stat. 812, 823; Pub. L. 107–16, title II, §§ 201(b)(2)(E), 202(a)(1), (b)(1)(A), (2)(A), (c), (d)(1), (e)(1), (f)(1), (2)(A), June 7, 2001, 115 Stat. 46–49; Pub. L. 107–147, title IV, §§ 411(c)(1)(A)–(E), 418(a)(1), Mar. 9, 2002, 116 Stat. 45, 57; Pub. L. 109–58, title XIII, § 1335(b)(1), Aug. 8, 2005, 119 Stat. 1036; Pub. L. 109–135, title IV, § 402(i)(3)(A), (4), Dec. 21, 2005, 119 Stat. 2612, 2615; Pub. L. 110–343, div. B, title I, § 106(e)(2)(A), Oct. 3, 2008, 122 Stat. 3817; renumbered § 36C, amended, and renumbered § 23, Pub. L. 111–148, title X, § 10909(a)(1), (b)(1), (2)(I), (c), Mar. 23, 2010, 124 Stat. 1021, 1022, 1023; Pub. L. 111–312, title I, § 101(b)(1), Dec. 17, 2010, 124 Stat. 3298.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 10909(c) of Pub. L. 111–148, see Effective and Termination Dates of 2010 Amendment note below.

For termination of amendment by section 106(f)(3) of div. B of Pub. L. 110–343, see Effective and Termination Dates of 2008 Amendment note below.

For termination of amendment by section 402(i)(3)(H) of Pub. L. 109–135, see Effective and Termination Dates of 2005 Amendment note below.

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

PRIOR PROVISIONS

A prior section 23, added Pub. L. 95–618, title I, § 101(a), Nov. 9, 1978, 92 Stat. 3175, § 44C; amended Pub. L. 96–223, title II, §§ 201, 202(a)–(d), 203(a), Apr. 2, 1980, 94 Stat. 256, 258; renumbered § 23 and amended Pub. L. 98–369, div. A, title IV, §§ 471(c), 474(e), title VI, § 612(e)(2), July 18, 1984, 98 Stat. 826, 831, 912, related to residential energy credit, prior to repeal by Pub. L. 101–508, title XI, § 11801(a)(1), Nov. 5, 1990, 104 Stat. 1388–520.

AMENDMENTS

2010—Subsec. (a)(3). Pub. L. 111–148, § 10909(a)(1)(B), (c), as amended by Pub. L. 111–312, temporarily substituted ''$13,170'' for ''$10,000'' in heading and text. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (b)(1). Pub. L. 111–148, § 10909(a)(1)(A), (c), as amended by Pub. L. 111–312, temporarily substituted ''$13,170'' for ''$10,000''. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (b)(4). Pub. L. 111–148, § 10909(b)(2)(I)(i), (c), as amended by Pub. L. 111–312, temporarily struck out par. (4). Text read as follows: ''In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''

See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (c). Pub. L. 111–148, § 10909(b)(2)(I)(ii), (c), as amended by Pub. L. 111–312, temporarily struck out subsec. (c) which related to carryforwards of unused credit. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (h). Pub. L. 111–148, § 10909(a)(1)(C), (c), as amended by Pub. L. 111–312, temporarily amended subsec. (h) generally. Prior to amendment, subsec. (h) related to adjustments for inflation. See Effective and Termination Dates of 2010 Amendment note below.

2008—Subsec. (b)(4)(B). Pub. L. 110–343, § 106(e)(2)(A), (f)(3), temporarily inserted ''and section 25D'' after ''this section''. See Effective and Termination Dates of 2008 Amendment note below.

2005—Subsec. (b)(4). Pub. L. 109–135, § 402(i)(3)(A)(i), (H), temporarily substituted ''In the case of a taxable year to which section 26(a)(2) does not apply, the credit'' for ''The credit'' in introductory provisions. See Effective and Termination Dates of 2005 Amendment note below.

Subsec. (c). Pub. L. 109–135, § 402(i)(3)(A)(ii), (H), temporarily reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by subsection (b)(4) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward

(a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

(c) Energy conservation measure

(1) In general

For purposes of this section, the term ''energy conservation measure'' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit.

(2) Other definitions

For purposes of this subsection—

(A) Dwelling unit

The term ''dwelling unit'' has the meaning given such term by section 280A(f)(1).

(B) Public utility

The term ''public utility'' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term ''person'' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

(d) Exception

This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

(Added Pub. L. 102–486, title XIX, §1912(a), Oct. 24, 1992, 106 Stat. 3014; amended Pub. L. 104–188, title I, §1617(a), (b), Aug. 20, 1996, 110 Stat. 1858.)

REFERENCES IN TEXT

Section 210 of the Public Utility Regulatory Policy Act of 1978, referred to in subsec. (d), probably means section 210 of the Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, which is classified to section 824a–3 of Title 16, Conservation.

PRIOR PROVISIONS

A prior section 136 was renumbered section 140 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–188, §1617(b)(1), reenacted heading without change and amended text generally, substituting present provisions for former provisions which consisted of general exclusion in par. (1) and limitation for exclusion on nonresidential property in par. (2).

Subsec. (c)(1). Pub. L. 104–188, §1617(a), substituted ''energy demand with respect to a dwelling unit.'' for ''energy demand—

''(A) with respect to a dwelling unit, and

''(B) on or after January 1, 1995, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).''

Subsec. (c)(2). Pub. L. 104–188, §1617(b)(2), struck out ''and special rules'' after ''definitions'' in heading, redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which related to ''specially defined energy property''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1617(c) of Pub. L. 104–188 provided that: ''The amendments made by this section [amending this section] shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.''

EFFECTIVE DATE

Section 1912(c) of Pub. L. 102–486 provided that: ''The amendments made by this section [enacting this section and renumbering former section 136 as 137] shall apply to amounts received after December 31, 1992.''

§137. Adoption assistance programs

(a) Exclusion

(1) In general

Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

(2) $10,000 exclusion for adoption of child with special needs regardless of expenses

In the case of an adoption of a child with special needs which becomes final during a taxable year, the qualified adoption expenses with respect to such adoption for such year shall be increased by an amount equal to the excess (if any) of $10,000 over the actual aggregate qualified adoption expenses with respect to such adoption during such taxable year and all prior taxable years.

(b) Limitations

(1) Dollar limitation

The aggregate of the amounts paid or expenses incurred which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $10,000.

(2) Income limitation

The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

(A) the amount (if any) by which the taxpayer's adjusted gross income exceeds $150,000, bears to

(B) $40,000.

(3) Determination of adjusted gross income

For purposes of paragraph (2), adjusted gross income shall be determined—

(A) without regard to this section and sections 199, 221, 222, 911, 931, and 933, and

(B) after the application of sections 86, 135, 219, and 469.

(c) Adoption assistance program

For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees—

(1) under which the employer provides such employees with adoption assistance, and

(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

(d) Qualified adoption expenses

For purposes of this section, the term ''qualified adoption expenses'' has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

(e) Certain rules to apply

Rules similar to the rules of subsections (e), (f), and (g) of section 23 shall apply for purposes of this section.

(f) Adjustments for inflation

In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ''calendar year 2001'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

(Added Pub. L. 104–188, title I, §1807(b), Aug. 20, 1996, 110 Stat. 1901; amended Pub. L. 105–34, title XVI, §1601(h)(2)(C), Aug. 5, 1997, 111 Stat. 1092; Pub. L. 105–277, div. J, title IV, §4003(a)(2)(C), Oct. 21, 1998, 112 Stat. 2681–908; Pub. L. 107–16, title II, §202(a)(2), (b)(1)(B), (2)(B), (d)(2), (e)(2), title IV, §431(c)(1), June 7, 2001, 115 Stat. 47, 48, 68; Pub. L. 107–147, title IV, §§411(c)(2), 418(a)(2), Mar. 9, 2002, 116 Stat. 45, 57; Pub. L. 108–311, title IV, §403(e), Oct. 4, 2004, 118 Stat. 1188; Pub. L. 108–357, title I, §102(d)(1), Oct. 22, 2004, 118 Stat. 1428; Pub. L. 111–148, title X, §10909(a)(2), (b)(2)(J), (c), Mar. 23, 2010, 124 Stat. 1022, 1023; Pub. L. 111–312, title I, §101(b)(1), Dec. 17, 2010, 124 Stat. 3298.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 10909(c) of Pub. L. 111–148, see Effective and Termination Dates of 2010 Amendment note below.

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

PRIOR PROVISIONS

A prior section 137 was renumbered section 140 of this title.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–148, §10909(a)(2)(B), (c), as amended by Pub. L. 111–312, temporarily substituted ''$13,170'' for ''$10,000'' in heading and text. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (b)(1). Pub. L. 111–148, §10909(a)(2)(A), (c), as amended by Pub. L. 111–312, temporarily substituted ''$13,170'' for ''$10,000''. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (d). Pub. L. 111–148, §10909(b)(2)(J)(i), (c), as amended by Pub. L. 111–312, temporarily substituted ''section 36C(d)'' for ''section 23(d)''. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (e). Pub. L. 111–148, §10909(b)(2)(J)(ii), (c), as amended by Pub. L. 111–312, temporarily substituted ''section 36C'' for ''section 23''. See Effective and Termination Dates of 2010 Amendment note below.

Subsec. (f). Pub. L. 111–148, §10909(a)(2)(C), (c), as amended by Pub. L. 111–312, temporarily amended subsec. (f) generally. See Effective and Termination Dates of 2010 Amendment note below. Prior to amendment subsec. (f) read as follows: ''ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.''

2004—Subsec. (b)(1). Pub. L. 108–311 amended directory language of Pub. L. 107–147, §411(c)(2)(B). See 2002 Amendment note below.

Subsec. (b)(3)(A). Pub. L. 108–357 inserted ''199,'' before ''221''.

2002—Subsec. (a). Pub. L. 107–147, §411(c)(2)(A), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program. The amount of the exclusion shall be—

''(1) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

''(2) in the case of an adoption of a child with special needs, $10,000.''

Subsec. (b)(1). Pub. L. 107–147, §411(c)(2)(B), as amended by Pub. L. 108–311, substituted ''subsection (a)'' for ''subsection (a)(1)''.

Subsec. (f). Pub. L. 107–147, §418(a)(2), inserted at end ''If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.''

2001—Subsec. (a). Pub. L. 107–16, §§202(a)(2), 901, temporarily reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.'' See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b)(1). Pub. L. 107–16, §§202(b)(1)(B), 901, temporarily substituted ''subsection (a)(1)'' for ''subsection (a)'' and ''$10,000'' for ''$5,000 ($6,000, in the case of a child with special needs)''. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b)(2)(A). Pub. L. 107–16, §§202(b)(2)(B), 901, temporarily substituted ''$150,000'' for ''$75,000''. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b)(3)(A). Pub. L. 107–16, §§431(c)(1), 901, temporarily inserted ''222,'' after ''221,''. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (f). Pub. L. 107–16, §§202(d)(2), (e)(2), 901, temporarily added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: ''This section shall not apply to amounts paid or expenses incurred after December 31, 2001.'' See Effective and Termination Dates of 2001 Amendment note below.

1998—Subsec. (b)(3)(A). Pub. L. 105–277 inserted ''221,'' after ''and sections''.

1997—Subsec. (b)(1). Pub. L. 105–34 substituted ''of the amounts paid or expenses incurred which may be taken into account'' for ''amount excludable from gross income''.

EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by Pub. L. 111–148 terminated applicable to taxable years beginning after Dec. 31, 2011, and section is amended to read as if such amendment had never been enacted, see section 10909(c) of Pub. L. 111–148, set out as a note under section 1 of this title.

Amendment by Pub. L. 111–148 applicable to taxable years beginning after Dec. 31, 2009, see section 10909(d) of Pub. L. 111–148, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by Pub. L. 108–357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108–357, set out as a note under section 56 of this title.

Amendment by Pub. L. 108–311 effective as if included in the provisions of the Job Creation and Worker Assistance Act of 2002, Pub. L. 107–147, to which such amendment relates, see section 403(f) of Pub. L. 108–311, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 411(c)(2) of Pub. L. 107–147 applicable to taxable years beginning after Dec. 31, 2002, except that amendment by section 411(c)(2)(B) applicable to taxable years beginning after Dec. 31, 2001, see section 411(c)(3) of Pub. L. 107–147, set out as a note under section 23 of this title.

Amendment by section 418(a)(2) of Pub. L. 107–147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 418(c) of Pub. L. 107–147, set out as a note under section 21 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by section 202(b)(1)(B), (2)(B), (d)(2), (e)(2) of Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2001, see section 202(g)(1) of Pub. L. 107–16, set out as a note under section 23 of this title.

Amendment by section 202(a)(2) of Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2002, see section 202(g)(2) of Pub. L. 107–16, set out as a note under section 23 of this title.

Amendment by section 431(c)(1) of Pub. L. 107–16 applicable to payments made in taxable years beginning after Dec. 31, 2001, see section 431(d) of Pub. L. 107–16, set out as a note under section 62 of this title.

Amendment by Pub. L. 107–16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107–16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 4003(*l*) of Pub. L. 105–277, set out as a note under section 86 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1996, see section 1807(e) of Pub. L. 104–188, set out as a note under section 23 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 138. Medicare Advantage MSA

(a) Exclusion

Gross income shall not include any payment to the Medicare Advantage MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

(b) Medicare Advantage MSA

For purposes of this section, the term ''Medicare Advantage MSA'' means an Archer MSA (as defined in section 220(d))—

(1) which is designated as a Medicare Advantage MSA,

(2) with respect to which no contribution may be made other than—

(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

(B) a trustee-to-trustee transfer described in subsection (c)(4),

(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

(4) which is established in connection with an MSA plan described in section 1859(b)(3) of the Social Security Act.

(c) Special rules for distributions

(1) Distributions for qualified medical expenses

In applying section 220 to a Medicare Advantage MSA—

(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

(B) section 220(d)(2)(C) shall not apply.

(2) Penalty for distributions from Medicare Advantage MSA not used for qualified medical expenses if minimum balance not maintained

(A) In general

The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Advantage MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

IRS

Top Ten Facts about Adoption Tax Benefits

Español

IRS Tax Tip 2015-35, March 10, 2015

If you adopted or tried to adopt a child in 2014, you may qualify for a tax credit. If your employer helped pay for the costs of an adoption, you may be able to exclude some of your income from tax. Here are ten things you should know about adoption tax benefits.

1. **Credit or Exclusion.** The credit is nonrefundable. This means that the credit may reduce your tax to zero. If the credit is more than your tax, you can't get any additional amount as a refund. If your employer helped pay for the adoption through a written qualified adoption assistance program, you may qualify to exclude that amount from tax.
2. **Maximum Benefit.** The maximum adoption tax credit and exclusion for 2014 is $13,190 per child.
3. **Credit Carryover.** If your credit is more than your tax, you can carry any unused credit forward. This means that if you have an unused credit in 2014, you can use it to reduce your taxes for 2015. You can do this for up to five years, or until you fully use the credit, whichever comes first.
4. **Eligible Child.** An eligible child is under age 18. This rule does not apply to persons who are physically or mentally unable to care for themselves.
5. **Qualified Expenses.** Adoption expenses must be directly related to the adoption of the child and be reasonable and necessary. Types of expenses that can qualify include adoption fees, court costs, attorney fees and travel.
6. **Domestic or Foreign Adoptions.** In most cases, you can claim the credit whether the adoption is domestic or foreign. However, the timing rules for which expenses to include differ between the two types of adoption.
7. **Special Needs Child.** If you adopted an eligible U.S. child with special needs and the adoption is final, a special rule applies. You may be able to take the tax credit even if you didn't pay any qualified adoption expenses.
8. **No Double Benefit.** Depending on the adoption's cost, you may be able to claim both the tax credit and the exclusion. However, you can't claim both a credit and exclusion for the same expenses. This rule prevents you from claiming both tax benefits for the same expense.
9. **Income Limits.** The credit and exclusion are subject to income limitations. The limits may reduce or eliminate the amount you can claim depending on the amount of your income.
10. **IRS Free File.** You can use IRS Free File to prepare and e-file your federal tax return for free. File Form 8839, Qualified Adoption Expenses, with your Form 1040. Free File is only available on IRS.gov/freefile.

If you found this Tax Tip helpful, please share it through your social media platforms. A great way to get tax information is to use IRS Social Media. You can also subscribe to IRS Tax Tips or any of our e-news subscriptions.

Additional IRS Resources:

•Tax Topic 607 – Adoption Credit and Adoption Assistance Programs

IRS YouTube Video:

•Welcome to Free File – English (Obsolete)

Subscribe to IRS Tax Tips

Page Last Reviewed or Updated: 24-Nov-2015

IRS

Topic 607 - Adoption Credit and Adoption Assistance Programs

Tax benefits for adoption include both a tax credit for qualified adoption expenses paid to adopt an eligible child and an exclusion for employer-provided adoption assistance. The credit is nonrefundable, which means it is limited to your tax liability for the year. The maximum amount (dollar limit) for 2014 is $13,190 per child.

Qualified adoption expenses

For both the credit and the exclusion, qualified adoption expenses, defined in section 23(d)(1) of the Code, include:

- Reasonable and necessary adoption fees,
- Court costs and attorney fees,
- Traveling expenses (including amounts spent for meals and lodging while away from home), and
- Other expenses that are directly related to and for the principal purpose of the legal adoption of an eligible child.

An eligible child is an individual who is under the age of 18, or is physically or mentally incapable of self-care.

Qualified adoption expenses **do not include** expenses that a taxpayer pays to adopt the child of the taxpayer's spouse.

Qualified adoption expenses include expenses incurred by a registered domestic partner who lives in a state that allows same-sex second parent or co-parent to adopt his or her partner's child, adoption expenses and that otherwise qualify for the credit.

Income and dollar limitations

The credit and exclusion are each subject to an income limitation and a dollar limitation. The **income limit** on the adoption credit or exclusion is based on your modified adjusted gross income (MAGI). If your MAGI amount for 2014 falls between $197,880 and $237,880, your credit or exclusion is subject to a phaseout (is reduced or eliminated). For tax year 2014, the MAGI phaseout begins at $197,880 and ends at $237,880. Thus, if your MAGI amount is below $197,880 for 2014, your credit or exclusion will not be affected by the MAGI phaseout but if your MAGI amount for 2014 is above $237,880, your credit or exclusion will be zero.

You should reduce the **dollar limit** for a particular year by the amount of qualified adoption expenses used in the previous years for the **same adoption effort**. For example, if you claimed a $3,000 credit in connection with a domestic adoption in 2013 and paid an additional $13,190 of qualified adoption expenses in 2014 (when the adoption became final), the maximum credit you can claim in 2014 is $10,190 ($13,190 dollar limit, less $3,000 of qualified adoption expenses claimed in 2013).

The **dollar limitation** applies separately to both the credit and the exclusion, and you may be able to claim both the credit and the exclusion for qualified expenses. However, you must claim any allowable exclusion before claiming any allowable credit. Expenses used for the exclusion reduce the amount of qualified adoption expenses available for the credit. As a result, you cannot claim both a credit and an exclusion for the same expenses. Examples 1, 2 and 3 illustrate these rules.

Example 1. In 2014, the following events occur: (a) You pay $13,190 of qualified adoption expenses in connection with an adoption of an eligible child; (b) your employer reimburses you for $3,190 of those expenses; and (3) the adoption becomes final. Your MAGI amount for 2014 is less than $197,880. Assuming you meet all other requirements, you can exclude $3,190 from your gross income for 2014. However, the expenses allowable for the adoption credit are limited to $10,000 ($13,190 total expenses paid less $3,190 employer reimbursement).

Example 2. The facts are the same as in Example 1, except that you pay $18,190 of qualified adoption expenses and your employer reimburses you for $5,000 of those expenses. Assuming you meet all other requirements, you can exclude $5,000 from your gross income for 2014 and claim a $13,190 adoption credit ($18,190 total expenses paid less $5,000 employer reimbursement).

Example 3. The facts are the same as in Example 1, except that you pay $30,000 of qualified adoption expenses and your employer reimburses you for $13,190 of those expenses. Assuming you meet all other requirements, you can exclude $13,190 from your gross income for 2014. You can also claim a credit of $13,190. The remaining $3,620 of expenses ($30,000 total expenses paid, less $13,190 dollar-limited exclusion, less $13,190 dollar-limited credit), cannot be used for either the exclusion or the adoption credit due to the **dollar limitation**.

Timing rules: For what tax year can you claim the credit?

The tax year for which you can claim the credit depends on the following:

- When the expenses are paid;
- Whether it is a domestic adoption or a foreign adoption; and
- Whether the adoption has finalized in the year.

Generally, the credit is allowable whether the adoption is domestic or foreign. However, the timing rules for claiming the credit for qualified adoption expenses differ between the two types of adoption.

- A **domestic adoption** is the adoption of a U.S. child (an eligible child who is a citizen or resident of the U.S. or its possessions before the adoption effort begins). Qualified adoption expenses paid before the year the adoption becomes final are allowable as a credit for the tax year **following the year of payment** (even if the adoption is never finalized).
- A **foreign adoption** is the adoption of an eligible child who is not yet a citizen or resident of the U.S. or its possessions before the adoption effort begins. Qualified adoption expenses paid before and during the year are allowable as a credit for the **year when it becomes final**.

Once an **adoption becomes final**, qualified adoption expenses **paid during or after** the year of finality are allowable as a credit for the **year of payment**, whether the adoption is foreign or domestic. Because of these timing rules, a taxpayer may sometimes claim a credit for both prior-year and current-year qualified adoption expenses in the year of finality. Example 4 illustrates the difference.

Example 4. An adoptive parent pays qualified adoption expenses of $3,000 in 2012, $4,000 in 2013 and $5,000 in 2014. In 2014, the adoption becomes final.

If the adoption in **Example 4 is domestic**, the adoptive parent may claim the $3,000 of expenses paid in 2012 as a credit on the parent's 2013 tax return. Then the adoptive parent claims both the $4,000 paid in 2013 and the $5,000 paid in 2014 as a credit on their 2014 tax return. The credit claimed on the 2014 tax return includes the $4,000 paid in 2013, because 2014 is the year after the year in which it was paid. The $5,000 is claimed on the 2014 return because 2014 is the year when the adoption becomes final. Since the adoption credit is nonrefundable, the total $9,000 credit claimed on the 2014 tax return reduces any tax liability for 2014. The excess, if any, will be carried forward to the next year.

If the adoption in **Example 4 is foreign**, the adoptive parent may claim all $12,000 in qualified adoption expenses ($3,000 paid in 2012, $4,000 paid in 2013 and $5,000 in 2014) on the adoptive parent's 2014 tax return because 2014 is the year when the adoption becomes final.

Adoption of U.S. children that a state has determined to have special needs

If you adopt a U.S. child that a state has determined to have special needs, you are eligible for the maximum amount of credit or exclusion for the year the adoption is final, even if you did not pay qualified adoption expenses.

A **child has special needs** for purpose of the adoption expenses if:

1. The child is a citizen or resident of the United States or its possessions when the adoption effort began;
2. A state determines that the child cannot or should not be returned to his or her parent's home; and
3. The state determines that the child probably will not be adoptable without assistance provided to the adoptive family.

Do not confuse "children with special needs" for purposes of the adoption credit with the definitions of "children with special needs" for other purposes. Foreign children are not considered to have special needs for purposes of the adoption credit. Even U.S. children who have disabilities may not have special needs for purposes of the adoption credit. Generally, **"special needs" adoptions** are the adoptions of children whom the state's child welfare agency considers **difficult to place for adoption**.

Filing status

To determine your filing status, see Publication 501, *Exemptions, Standard Deductions, and Filing Information*, and What is My Filing Status? on IRS.gov.

If you filed your return using the married filing separately filing status in the year particular qualified adoption expenses are first allowable, you cannot claim the credit or exclusion for those particular expenses. You may need to file an amended return to change to a qualifying filing status within the period of limitations.

Example 5. Husband and wife pay qualified adoption expenses of $3,000 in 2012, $4,000 in 2013, and $5,000 in 2014. In 2014, the domestic adoption becomes final. They have filed married filing separately for all prior tax years.

On the 2014 tax return they file married filing jointly and only $9,000 ($4,000 paid in 2013 and $5,000 paid in 2014) of the expenses qualify for 2014. Since they filed married filing separately in 2013 and the $3,000 paid in 2012 is first allowable for 2013, they cannot claim the adoption credit for those expenses unless they change their filing status to married filing jointly for 2013.

Form 8839 and instructions

To claim the adoption credit or exclusion, complete Form 8839 (PDF), *Qualified Adoption Expenses*, and attach the form to your Form 1040 (PDF), *U.S. Individual Income Tax Return*, or Form 1040NR (PDF), *U.S. Nonresident Alien Income Tax Return.*

There is no longer a requirement to attach the adoption documentation with your tax return. However, you must keep the documentation as part of your records. The IRS encourages taxpayers to e-file their federal income tax returns. Form 8839 can be e-filed with Form 1040 or Form 1040NR. Consequently, taxpayers who e-file their tax returns need not print and mail completed forms to the IRS.

More Tax Topic Categories

Page Last Reviewed or Updated: August 31, 2015

Subsidies Department
County Children's Services
Adoptions
East Buckeye Street
Columbus, OH 43210
Attention Mr. Money

DRAFT

RE: ADOPTION OF JACK AND JILL TALE

Dear Mr. Money,

First, thank you for agreeing to meet with us regarding subsidies. Please note it is our intention to request an increase in subsidies for immediate use and that this request is not for post-adoption subsidies. Only upon completion of medical testing will we be able to provide a comprehensive demand for post adoption subsidies.

As you are aware, the Tale children have significant educational and psychological needs. For this reason, we request that the current subsidies increase so that the Tale family receive a combined monthly total of $1,300 per month for both children. This would include medical needs, educational needs, etc. This does not include respite care, clothing subsidies, medical or psychological testing, or medicaid. Below, you will find a detailed description as to why there is a need to increase in the subsidies. Also included with this letter is documentation for your review in support of this request.

Jill:
Jill continues to treat with Dr. Mills for psychological counseling each week.
Please see the January 3, 2003 and May 21, 2003 letters from Dr. Mills regarding Jill's status in therapy. It is my understanding that Dr. Mills will be providing you a letter regarding Jill's need to receive additional, more intensive therapeutic care to supplement the care provided by Dr. Mills. Consistent with this, Jill has been evaluated by Dr. King in

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Cleveland. It is Dr. King's recommendation that Jill, Jack and the Tale's receive 6 to 10 sessions of intense outpatient bonding therapy at a total cost of $2,200 for both children and the Tales.

Regarding Jill's educational needs, Jill needs to repeat third grade. She has had considerable difficulty in school, including her generalized difficulty to remain on task, an inability to recognize facts, difficulty applying concepts, and difficulty with attention span. Despite treatment for ADHD, work with her teachers, teacher's aides, tutors, and the Tales, Jill is still not prepared to move on to the fourth grade.

In documenting Jill's educational difficulties, please review the neuropsychological report previously provided to the Agency. In addition enclosed please find a school age referral filled out by Jill's teacher, William Susa, describing the difficulties and compensation that has been given to assist Jill. Further please find progress reports and grade cards filled out by Mr. Susa, and statements by Jill's language arts tutors and letters from her personal tutor, Waldo Stephens.

Please note that Jill is receiving extremely specialized attention at St. Marks School. At St. Marks, Jill receives significant one on one attention from her teacher, teacher's aid, and latch key tutors. She would not have this level of attention available to her through a public education. See the letter from the Southwestern City Schools administrator confirming what could be provided to Jill in the public school in her district. For these reasons it is the Tale's goal that Jill continue to attend St. Marks School in order to receive this specialized academic care. It is our hope that upon completion of the medical testing we will have more information to evaluate is if another school would be more effective for Jill. It is also the Tale's goal that Jill continue to obtain tutoring at latch key and with Waldo Stephens, as well as attend the Ohio State Reading Clinic when school begins. This is consistent with instructions from Jill's teachers. See the letters attached. The cost for these services are broken down below:

$360 per month per child to attend St. Marks School.
$120 per month per child to attend latch-key, including tutoring.
$150 for the Ohio State Reading Clinic per quarter year.
$ 30/per hour once a week for tutoring with Waldo Stephens.

Medically, Jill continues to suffer from ADHD for which she takes Aderol. In addition, Jill has received a physical therapy and occupational therapy department assessment as follow-up care for her clubbed foot repaired during infancy, and for upper body strength to improve tactile impairment. She is currently to be assessed on a monthly basis by the Children's Hospital physical therapy and occupational therapy department, and she is receiving this treatment at home. Documentation regarding these items is included in this packet. You will note in the information provided, Jill's medical providers recommend that

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Jill participate in activities such yoga, swimming, dance or sports, as well as the home program of one hour of work per day. Additional monies are requested in order to pay for the $220 family summer swimming pass, as well as to enroll Jill in dance or gymnastics and swimming, as recommended by the occupational and physical therapists, and also Dr. Cain.

Please note that Jill is scheduled to have an EMG nerve test and MRI on January 10, 2004, a genetic assessment on January 18, 2004, of which has been ordered by Dr. Jacobs of Children's Hospital. Dr. Jacobs has requested that a caseworker be present at all future appointments and has requested specific information to be provided. See the items enclosed. In addition, please note that it is likely that fetal alcohol syndrome will be diagnosed, since the birth mother has recently admitted to significant alcohol consumption during her pregnancy with Jill. In light of the fetal alcohol issues, and other medical issues it is hoped that Jill's physical, emotional and educational difficulties can be more accurately addressed.

Jack: Regarding Jack's educational needs, it Mr. and Mrs. Tale's goal to have Jack attend first grade this upcoming school year. He needs to "catch up" academically. Whether he will be capable of doing so will depend on a final assessment by the Kindergarten teacher after the work Jack has completed this summer. This additional work is needed due to the significant emotional difficulties that Jack had causing him to be removed from Kindergarten for part of this past year. For your convenience, I have enclosed several grade cards, as well as progress reports filled out by his teachers to provide samples of Jack's difficult behavior in school. Currently tutoring costs $90 per week or $30 per hour for 3 hours. When school begins, in lieu of latch-key programs, Mr. and Mrs. Tale would like to send Jack to the Fundamentals Learning Center three times per week at the rate of $105 per week. This would enable Jack to have a specialized play group, as well as tutoring, to facilitate his social and educational development. As you are aware Jack has had considerable difficulties socializing with children his own age and has been very agressive towards his peers.

Psychologically, Jack continues to need the weekly therapy provided by Dr. McCarthy. In addition, it is Dr. Mills' opinion that both children need to attend a vigorous out-patient therapy program with Dr. King at a rate of $2,200 for ten (10) sessions. It has been noted in Jill's portion of this letter.

Medically Jack suffers from ADHD for which he takes Aderol. A side effect of the ADHD is weight loss. Jack is given a supplement daily to combat the wright loss. Jack still continues to require daily management of asthma and he still wears pull ups at night for bed wetting.

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Additional reasons for an increase in the subsidies include the fact that Mrs. Tale has not been able to work full-time or barely even close to part-time, since the children have moved into the home. This is due to the significant emotional and educational needs of the children, i.e., difficulty is obtaining respite care for special needs children, significant weekly hours of assistance with homework, the attendance of doctors' appointments on a regular basis, the weekly therapy sessions, the daily requirement for assistance with occupational and physical therapy at home for Jill, a level of care required by the children, the difficulty in getting assistance from the Agency in providing respite care, as well as transportation, and meetings facilitated by the Agency. For all of these reasons, the Tale's request additional subsidies until the children are both attending school full-time, and all medical, psychological, physical therapy, and other appointments have been significantly reduced.

Respectfully submitted,

Sample Demand letter

Corinne N. Ryan

CNR