

CHAPTER 121**ADOPTIONS****Authority**

N.J.S.A. 9:3-54.1, 30:4C-4(h), and 30:4C-49.

Source and Effective Date

R.2012 d.005, effective December 7, 2011.
See: 42 N.J.R. 3030(a), 44 N.J.R. 83(b).

Chapter Expiration Date

Chapter 121, Adoptions, expires on December 7, 2018.

Chapter Historical Note

Chapter 121, Adoptions, was filed and became effective prior to September 1, 1969.

Subchapter 3, Adoption Complaint Investigation Fees, was adopted as R.1975 d.15, effective February 6, 1975. See: 7 N.J.R. 58(c).

Subchapter 4, Release of Criminal HISTORY Record Information, was adopted as R.1979 d.119, effective March 19, 1979. See: 10 N.J.R. 543(a), 11 N.J.R. 248(a).

Pursuant to Executive Order No. 66(1978), Subchapter 3, Adoption Complaint Investigation Fees, was readopted as R.1983 d.509, effective . See: 15 N.J.R. 1341(a), 15 N.J.R. 1865(b).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Release of Criminal HISTORY Record Information, was readopted as R.1984 d.88, effective March 13, 1984. See: 16 N.J.R. 119(b), 16 N.J.R. 730(a).

Pursuant to Executive Order No. 66(1978), Chapter 121, Adoptions, expired on March 13, 1989.

Chapter 121, Adoptions, was adopted as new rules by R.1990 d.344, effective July 16, 1990. See: 21 N.J.R. 3047(b), 22 N.J.R. 2172(a).

Pursuant to Executive Order No. 66(1978), Chapter 121, Adoptions, was readopted as R.1995 d.360, effective June 12, 1995. See: 27 N.J.R. 1122(a), 27 N.J.R. 2616(a).

Pursuant to Executive Order No. 66(1978), Chapter 121, Adoptions, was readopted as R.2000 d.254, effective May 24, 2000. Subchapter 4, Release of Criminal History Record Information, was repealed, and Subchapter 5, Medical Information Forms, was recodified as Subchapter 4, Medical Information Form, by R.2000 d.254, effective June 19, 2000. See: 32 N.J.R. 741(a), 32 N.J.R. 2239(a).

Chapter 121, Adoptions, was readopted as R.2005 d.439, effective November 18, 2005. As a part of R.2005 d.439, former Subchapter 1, Approval of Agencies Desiring to Place Children in New Jersey, was repealed; former Subchapter 2, Adoption Subsidy, was recodified as Subchapter 1; former Subchapter 3, Adoption Complaint Investigation Fees, was recodified as Subchapter 2; and former Subchapter 4, Medical Information, was recodified as Subchapter 3, effective December 19, 2005. See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 121, Adoptions, expires on May 17, 2013. See: 43 N.J.R. 1203(a).

Chapter 121, Adoptions, was readopted as R.2012 d.005, effective December 7, 2011. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADOPTION SUBSIDY**10:121-1.1 Definitions**

The following words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Adoption subsidy” means payments for the care and maintenance of a special needs child.

“Board rate” means the rate paid to the resource family for the child at the time of finalization or that which would have been paid for the child if the child was in placement.

“Child” means any person under the age of 18 or approved for continued adoption subsidy up to the maximum age of 21.

“Department” means the New Jersey Department of Children and Families.

“DYFS Director” means the Director of the Division of Youth and Family Services in the Department of Children and Families.

“Resource parent” means a person who has received a resource parent license from the State of New Jersey in order to provide foster, adoptive or kinship care.

“Special needs child” means any child who the State of New Jersey has the legal right to place for adoption but who is reasonably expected to be hard to place (due to a difficulty in finding a prospective adoptive home) as specified in N.J.A.C. 10:121-1.2.

New Rule, R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).

Former N.J.A.C. 10:121-1.1, Approval of agencies, repealed.
Amended by R.2012 d.005, effective January 3, 2012.
See: 42 N.J.R. 3030(a), 44 N.J.R. 83(b).

Deleted definition “Assistant Commissioner”; in definition “Child”, inserted “or approved for continued adoption subsidy up to the maximum age of 21”; in definition “Department”, substituted “Children and Families” for “Human Services”; and added definition “DYFS Director”.

10:121-1.2 Determining that a child is a special needs child

(a) A Department representative shall determine that a child is a special needs child for any of the following reasons:

1. Any medical or dental condition which will require repeated or frequent hospitalization or treatment;
2. Any physical handicap, by reason of physical defect or deformity, whether congenital or acquired by accident, injury or disease, which makes or may be expected to make a child totally or partially incapacitated for education or for remunerative occupation;
3. Any substantial disfigurement, such as the loss or deformation of facial features, torso or extremities;
4. A diagnosed emotional, mental health or behavioral problem, psychiatric disorder, serious intellectual incapacity or brain damage which seriously affects the child's ability to relate to his or her peers or authority figures, including, but not limited to, a developmental disability;
5. The child is one of a group of three or more siblings (including half-siblings) and the siblings are placed together, or the child is one of two siblings (including half-siblings) one of whom meets the special needs criteria, and it is considered most appropriate that the children be placed together;
6. The child is 10 years old or older;
7. The child is over two years of age and a member of an ethnic or minority group for whom adoptive homes are not readily available. Information regarding availability of homes may be obtained from the Department;
8. The child is over five years of age and has been living with a resource parent for at least 12 months and adoption by the resource parent is the most appropriate plan for the child. A child under five may be deemed special needs and qualify for subsidy under this subsection if he or she is a member of an ethnic or minority group for whom adoptive homes are not readily available; or
9. Any other condition of a specific child which may be approved by the DYFS Director or designee.

New Rule, R.2005 d.439, effective December 19, 2005.

See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).

Amended by R.2012 d.005, effective January 3, 2012.

See: 42 N.J.R. 3030(a), 44 N.J.R. 83(b).

In (a)4, inserted "mental health"; in (a)5, substituted "the siblings are" for "it is considered necessary that the group be"; in (a)7 and (a)8, inserted "or minority"; and in (a)9, substituted "DYFS Director" for "Assistant Commissioner".

10:121-1.3 Payments for the care and maintenance of a special needs child (adoption subsidy)

(a) The Department shall make payments for the care and maintenance of a special needs child to the person(s) with whom the child has been placed for adoption or by whom the child has been adopted when such payments are applied for

prior to adoption according to such forms and procedures as may be established by the Department. The Department shall make adoption subsidy payments only to a person who, at the time the adoption is finalized, is a licensed resource parent in accordance with N.J.A.C. 10:122C or to a person who has been approved as an out-of-State adoptive parent.

(b) The Department shall determine and approve the qualifications for subsidy payments prior to the completion of an adoption proceeding. In order to qualify for subsidy, a child must meet at least one criterion for a special needs child listed in N.J.A.C. 10:121-1.2. The failure of the Department to complete its determination and approval of qualifications prior to the finalization of adoption shall not prevent qualification for adoption subsidy, if application for such subsidy was made in a timely manner. Eligibility for subsidy shall be subject to an annual review and redetermination as described in N.J.A.C. 10:121-1.4(a).

1. An adoptive family may re-apply for adoption subsidy on behalf of a child who was initially found ineligible for the subsidy benefit. The adoptive family may apply for adoption subsidy at any time after finalization, if the child develops problems traceable to either his or her genetic heritage or pre-adoptive experiences and which may qualify him or her for adoption subsidy.

(c) No payments shall be made for any child who the Department has determined was brought into the State of New Jersey for the sole purpose of qualifying for adoption subsidy.

(d) In addition to meeting the requirements as set forth in (a) through (c) above, payments pursuant to this section shall be made on behalf of a child only in one of the following circumstances:

1. A child is placed for adoption by the Department;
2. A New Jersey child is placed with a New Jersey family by an agency approved to provide adoption services in New Jersey;
3. A New Jersey child who is not Title IV-E eligible or Supplemental Security Income eligible is placed in any state other than New Jersey by an agency approved to provide adoption services in New Jersey;
4. A New Jersey child in placement who appears to be potentially eligible for Supplemental Security Income, but that determination has not yet been made, is placed in any state other than New Jersey by an agency approved to provide adoption services in New Jersey. Subsidy will be terminated if the child is determined to be Supplemental Security Income eligible and the family will be instructed to seek subsidy from its state of residence; or
5. A non-New Jersey child who is Title IV-E or Supplemental Security Income eligible prior to adoption finalization is placed with a New Jersey family by a private