

4. The needs of the children being adopted;
5. The amount of adoption subsidy to be paid;
6. The additional assistance or services to be provided by the State, and how the costs for these items are to be met;
7. Provisions for the protection of the interest of the child in cases where the adoptive parent(s) and child move to another state while the agreement is effective;
8. How the adoptive parent(s) shall notify the Department of changes in the needs of the child or circumstances of the adoptive family that would affect the eligibility for, or amount of, adoption subsidy;
9. How adoptive parent(s) shall be notified of any changes in the amount of adoption subsidy and how they may request changes in the adoption assistance agreement; and
10. Such other provisions as the Department may require.

(g) A Department representative shall make a reasonable effort to place the child in an adoptive setting without providing a subsidy, except in situations involving adoption by a child's resource parent or where the Department determines that such efforts should not be made because of the special needs of the child or the special qualifications of the adoptive parents.

Amended by R.1987 d.45, effective January 5, 1987.
See: 18 N.J.R. 24(a), 19 N.J.R. 129(a).
Recodified from N.J.A.C. 10:121-2.2 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Rewrote the section.

Case Notes

Foster parents do not qualify for adoption subsidy when they fail to show that foster child's emotional or behavioral problems affect ability to relate to peers or authority figure and diminish adoption prospects. *W. v. New Jersey Division Of Youth and Family Services*, 96 N.J.A.R.2d (DYF) 1.

Parents were not entitled to legal fees and subsidy in connection with adoption of hard-to-place child. *N.R. v. Division of Youth and Family Services*, 94 N.J.A.R.2d (DYF) 10.

10:121-1.4 Duration and amount of adoption subsidy

(a) The written agreement covering subsidy payments shall remain in effect regardless of family income until the child's 18th birthday. Subsidy payments will be terminated if the Department determines that the parents are no longer legally responsible for the child or the child is no longer receiving support from those parents.

(b) Payments in subsidization of adoption shall include, but are not limited to, the maintenance costs, medical, and surgical expenses, and other costs incidental to the care, training, and education of the child. Such payments may not exceed the cost of providing comparable assistance in

resource family care and shall not be made until the child becomes 21 years of age if the child is enrolled as a student of a secondary school or its equivalent.

(c) In the event of the death of the adoptive parent(s), subsidy payments shall be transferred to the new caregiver when the caregiver demonstrates legal responsibility for the child as a result of being named guardian in the adoptive parent's will or having obtained a custody order through the courts.

(d) An adoptive parent cannot be disqualified from receiving subsidy because of his or her family income.

(e) The amount of monthly payment for care and maintenance will be 100 percent of the applicable foster care board rate.

Recodified from N.J.A.C. 10:121-2.2 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Rewrote the section.

10:121-1.5 Other payments

(a) The medical costs of children determined to be special needs will be covered through Medicaid.

(b) Any child eligible for adoption subsidy is eligible for legal subsidy directly related to the adoption and approved by the Department prior to the adoption.

(c) Expenses resulting from a condition which qualified the child for adoption subsidy and which are not covered by third-party liability or Medicaid may be covered by the Department if specified in the agreement.

Recodified from N.J.A.C. 10:121-2.2 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Rewrote the section.

10:121-1.6 Exceptions

The requirements and standards prescribed in this subchapter may be subject to exceptions in specific cases where the Department determines that strict compliance would result in undue hardship or jeopardize the health, safety or welfare of the prospective adoptive parent or child except that no exception to these rules may exceed the limitations provided by Federal or State law.

Amended by R.1987 d.45, effective January 5, 1987.
See: 18 N.J.R. 24(a), 19 N.J.R. 129(a).
Recodified from N.J.A.C. 10:121-2.3 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Rewrote the section.

10:121-1.7 Administrative hearings

(a) Any person aggrieved by the decision of the Department not to make adoption subsidy payment pursuant to this section, or a decision to make such payment in an

inadequate or inappropriate amount contrary to the provisions of this section, or failure of the Department to determine with reasonable promptness any application filed with the Department under this section, shall be entitled to an administrative hearing when an application for a hearing is filed with the Department Administrative Hearings Unit within 15 calendar days of such decision or failure to act by the Department.

(b) The Department's Administrative Hearings Unit will transmit requests for hearings which comply with the provisions in (a) above to the Office of Administrative Law which will conduct all such hearings as contested case hearings pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1).

(c) Following receipt of the Initial Decision from the Office of Administrative Law and the expiration of the applicable comment periods, the Director shall issue a Final Decision which accepts, rejects, or modifies the Initial Decision. A copy of the Final Decision will be served on all parties of record.

Recodified by R.1987 d.45, effective January 5, 1987.
See: 18 N.J.R. 24(a), 19 N.J.R. 129(a).

Recodified from N.J.A.C. 10:121-2.5.
Amended by R.2000 d.254, effective June 19, 2000.
See: 32 N.J.R. 741(a), 32 N.J.R. 2239(a).
Recodified from N.J.A.C. 10:121-2.4 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Substituted "Department" for "Division" throughout.

SUBCHAPTER 2. ADOPTION COMPLAINT INVESTIGATION FEES

10:121-2.1 Adoption complaint investigation

The Division of Youth and Family Services, as an approved adoption agency in New Jersey, is authorized to conduct adoption complaint investigations and required to charge to the plaintiffs in such cases the costs of conducting such investigations pursuant to N.J.S.A. 9:3-53. The Division of Youth and Family Services charges fees to conduct adoption complaint investigations, based on a person's or family's ability to pay.

Amended by R.2000 d.254, effective June 19, 2000.
See: 32 N.J.R. 741(a), 32 N.J.R. 2239(a).
Deleted a former third sentence.
Recodified from N.J.A.C. 10:121-3.1 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Deleted "ACIs" throughout; added "adoption complaint investigation" to last sentence. Former N.J.A.C. 10:121-2.1, Definitions, repealed.

10:121-2.2 (Reserved)

Recodified as N.J.A.C. 10:121-1.3 through 1.5 by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Section was "Payments for the care and maintenance of a hard-to-place child (adoption subsidy)."

10:121-2.3 (Reserved)

Recodified as N.J.A.C. 10:121-1.6 by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Section was "Exceptions."

10:121-2.4 (Reserved)

Recodified as N.J.A.C. 10:121-1.7 by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Section was "Administrative hearings."

10:121-2.5 (Reserved)

Repealed by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Section was "Adoption resource exchange."

SUBCHAPTER 3. MEDICAL INFORMATION

10:121-3.1 Medical information forms

Pursuant to N.J.S.A. 9:3-41.1, an approved adoption agency shall provide prospective parents with all available information relevant to the child's developmental and medical history, personality, and the parent's medical histories, including drugs or medications taken during pregnancy or any conditions believed to be hereditary and any other aspects of the parent's health which may influence the child's present or future health. This information SHALL be shared with the prospective parent prior to the actual placement of the child in the home or upon completion of an investigation conducted by an approved agency pursuant to N.J.S.A. 9:3-53. This information shall be provided to the prospective parent on a Department specified form which is available from:

Office of Licensing
PO Box 717
Trenton, NJ 08625-0717

Amended by R.2000 d.254, effective June 19, 2000.
See: 32 N.J.R. 741(a), 32 N.J.R. 2239(a).
Rewrote the section.
Recodified from N.J.A.C. 10:121-4.1 and amended by R.2005 d.439, effective December 19, 2005.
See: 37 N.J.R. 1938(a), 37 N.J.R. 5001(b).
Substituted "a Department specified form" for "DYFS Form 14-177, Adoption Medical History," and rewrote address. Former N.J.A.C. 10:121-3.1 recodified as N.J.A.C. 10:121-2.1.