

*****DRAFT - NOT FOR FILING*****

5101:2-47-13 Title IV-E foster care maintenance (FCM) program eligibility: Legal responsibility requirements.

- (A) "Legal responsibility" means that for the care of the child under the FCM program, the Title IV-E agency has legal responsibility for the care and placement/custody of the child. This can be established through a court order, a JFS 01645 "Agreement for Temporary Custody of Child" or a JFS 01666 "Permanent Surrender of Child."
- (B) If legal responsibility is established through court action, the Title IV-E agency must obtain from the appropriate juvenile court an order:
- (1) Removing the child from the home of a specified relative as defined in rule 5101:2-47-14 of the Administrative Code; ~~and~~ or
 - (2) Removing the child, who is a candidate for Title IV-E prevention services, from a parent(s) and the child has been living with a kinship caregiver, as defined in 5101.85 of the Revised Code, for more than six months prior to the removal.
 - ~~(2)-(2) Showing the agency to be responsible for the child's care and placement/custody. The court order may be one of the following:~~
 - ~~(a) (a) An ex parte emergency court order as defined in rule 5101:2-1-01 of the Administrative Code.~~
 - ~~(b) (b) Temporary custody as defined in rule 5101:2-1-01 of the Administrative Code.~~
 - ~~(c) (c) Permanent custody as defined in rule 5101:2-1-01 of the Administrative Code.~~
 - ~~(d) (d) A planned permanent living arrangement order as defined in rule 5101:2-1-01 of the Administrative Code.~~
- (C) The court order giving the agency legal responsibility for the child's care and placement/custody may be one of the following:
- (1) An ex parte emergency court order as defined in rule 5101:2-1-01 of the Administrative Code.
 - (2) Temporary custody as defined in rule 5101:2-1-01 of the Administrative Code.
 - (3) Permanent custody as defined in rule 5101:2-1-01 of the Administrative Code.
 - (4) A planned permanent living arrangement order as defined in rule 5101:2-1-01 of the Administrative Code.
- ~~(C)-(D) If the Title IV-E agency's legal responsibility for care and placement/custody is obtained by a court order, the order leading to the removal of the child from the home of a specified relative must contain a judicial determination to the effect that continuation in the home would be contrary to the welfare, or that the placement is in the best interest of the child. ~~If one of these statements is not obtained, the child will not be FCM program eligible or reimbursable for this custody episode. In situations where a child is in a detention facility at the time the legal responsibility is directly ordered to the Title IV-E agency, the court order placing the child into detention will serve as the initial court order that removed the child from the specified relative.~~~~

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(E) In situations where a child is in a detention facility at the time the legal responsibility is directly ordered to the Title IV-E agency, that begins the removal episode, the court order placing the child into detention or the warrant will serve as the initial court order that removed the child from the specified relative.

(F) If the judicial determination to the effect that continuation in the home would be contrary to the welfare, or that the placement is in the best interest of the child is not obtained, the child will not be FCM program eligible or reimbursable for this custody episode.

~~(D)~~ (G) If the Title IV-E agency's responsibility for care and placement/custody is obtained by a court order, a judicial determination of reasonable efforts, as described in rule 5101:2-47-22 of the Administrative Code, by a juvenile court of competent jurisdiction shall be obtained no later than sixty days from the date the child is removed from the home of a specified relative. If this determination is not obtained by the sixtieth day, the child will not be FCM program eligible or reimbursable for this custody episode.

~~(E)~~ (H) For all children who entered care as the result of a JFS 01645, the JFS 01645 must be executed in accordance with rules 5101:2-42-06 and 5101:2-42-08 of the Administrative Code. A judicial determination specifying that the placement is in the best interest of the child must be obtained when the Title IV-E agency requests an original thirty-day extension of the JFS 01645 pursuant to rule 5101:2-42-08 of the Administrative Code. If the best interest judicial determination is not obtained when an original thirty-day extension is requested, the child will not be FCM program eligible or reimbursable after thirty days, unless prior to the thirty days elapsing the Title IV-E agency obtains the following:

- (1) A court order for care and placement/custody. Under this circumstance the agency must obtain the best interest determination in the court order giving continued custody to the agency.
- (2) A JFS 01666. Under this circumstance, the signed, court approved JFS 01666 must contain the best interest determination.

~~(F)~~ (I) A JFS 01666 signed by the parent(s) is acceptable as a voluntary placement agreement for FCM program eligibility purposes if it is the event which initially leads to the Title IV-E agency having legal responsibility for the child's care and placement/custody. In such cases, by the one hundred eightieth day from the date of placement, the Title IV-E agency must:

- (1) Petition the court for a judicial determination to the effect that continuation in the home of the specified relative is contrary to the welfare or that the placement is in the best interest of the child; and
- (2) Obtain the judicial determination of reasonable efforts, as described in rule 5101:2-47-22 of the Administrative Code.

~~(G)~~ (J) The judicial determinations required in this rule must be explicitly documented and made on a case by case basis and so stated in the court order. If the reasonable efforts or contrary to the welfare judicial determinations are not included as required in the court order, a transcript of the court proceedings is the only other documentation that will be accepted to verify that these required determinations have been made. An affidavit, amendment or a nunc pro tunc order will not be accepted as verification documentation of these judicial determinations.