

SECTION .0700 – SPECIAL NEED ADOPTION INCENTIVE FUND

10A NCAC 70M .0701 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL NEED ADOPTION INCENTIVE FUND AND EFFECTIVE DATE

Within the limits of available funding, the Department may approve and provide assistance in the form of standard monthly cash payments from the Special Need Adoption Incentive Fund when the following requirements have been met:

- (1) The child:
 - (a) Shall be a child with special needs and either has at least one of the factors or conditions listed in Rule .0102(b)(3)(E) through (H) of this Chapter of a child with special needs or meets the requirement in 42 USC 673(c)(2)(B)(ii);
 - (b) Shall meet the requirements for standard monthly cash adoption assistance in this Chapter;
 - (c) Shall be in the custody of the public adoption agency and placement responsibility of an adoption agency for at least six consecutive months prior to the finalization of the adoption;
 - (d) The special needs condition from Sub-Item (1)(a) of this Item is expected to limit the child's ability, both currently and throughout childhood, to function in the home, school, or community absent eight or more hours of in-person daily supervision or care for personal health care or prevention of self-destructive or assaultive behavior;
 - (e) The child will have resided in the foster parent's home for six consecutive months prior to the finalization of the adoption; and
 - (f) The child was legally adopted on or after January 1, 2001.
- (2) Each foster parent:
 - (a) be licensed as a foster parent;
 - (b) has been receiving standard monthly cash assistance from any governmental source, such as federal, state, or local, above the State adoption assistance rate established by the General Assembly for the previous six consecutive months prior to the finalization of the adoption to provide the direct care or supervision required for the child's health condition that meets the requirement in Item (4) of this Rule;
 - (c) prior to the issuance of the adoption decree, the foster parent made a request for financial assistance in addition to the State adoption assistance rate established by the General Assembly in order to provide the care required for the child's health condition that meets the requirements in Item (4) of this Rule;
 - (d) prior to the issuance of the adoption decree, the foster parent provided the public adoption agency with a signed letter that details the daily supervision needs of the child;
 - (e) shall only be willing to adopt the child if the monthly cash assistance from any other governmental source, such as federal, state, or local, above the State adoption assistance rate received for foster parents and is not terminated upon the adoption of the child;
 - (f) shall enter into an adoption assistance agreement with a public adoption agency prior to the decree of adoption;
 - (g) entered into a supplemental agreement with a public adoption agency prior to the adoption decree;
 - (h) agree to provide the public adoption agency with a copy of the adoption decree once the adoption has been finalized;
 - (i) shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309;
 - (j) shall require all individuals 18 years of age or older who reside in the prospective adoptive home to undergo a criminal history investigated pursuant to G.S. 48-3-303 and 49-3-309; and
 - (k) shall provide the public adoption agency with the results of the criminal back history investigation.

- (3) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The public adoption agency having custody of the child shall:
- (a) voluntarily agree to participate in the Special Need Adoption Incentive Fund and agree to assume 50 percent of the payment above the State adoption assistance rate established by the General Assembly.
 - (b) enter into an adoption assistance agreement as provided in this Rule.
 - (c) enter into a supplement agreement as provided in this Rule.
 - (d) maintain a record for the child that contains written documentation that the child and foster parent(s) have met or will meet the requirements for the foster child and the foster parents in this Rule at the time of the adoption decree and shall include the following:
 - (i) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Agency Verification of Legal Custody and Child's Living Arrangement For Past Six Months" Form DSS-5214, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the Director of the public adoption agency that verifies:
 - (A) each foster parent is licensed;
 - (B) the public adoption agency has legal custody and placement authority of the child;
 - (C) the child has lived with the foster family for six consecutive months prior to the adoption;
 - (D) that the foster parent(s) have received monthly cash assistance from a governmental source in excess of the standard board rate established by the General Assembly for the previous six months on a continuous basis and the amount of the payments; and
 - (E) the foster parent(s) have stated a willingness to adopt this child if the monthly cash assistance that they have received as foster parents is not terminated;
 - (ii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Health Condition" Form DSS-5213, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by a medical professional, who is qualified through licensing and credentialing to diagnose the child's condition prior to the adoption that demonstrates that the child meets all the requirements in Item (1) of this Rule;
 - (iii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Need for Daily Supervision" Form DSS-5215, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the foster parent(s) prior to the adoption that demonstrates the child meets all the requirements in this Item;
 - (iv) a letter from the foster parent(s) explaining the daily needs of the child;
 - (v) a signed adoption assistance agreement;
 - (vi) a signed supplement agreement;
 - (vii) a copy of the foster parent's license;
 - (viii) a copy of the decree of adoption once it has been received pursuant to this Rule;
 - (ix) a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home; and
 - (x) make a request, on behalf of the foster parent(s), prior to the adoption decree to the Department for Special Need Adoption Incentive Fund assistance for the foster parents.

History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153; Eff. August 1, 2021.

