

OFFICE OF CHILDREN AND FAMILY SERVICES
ADOPTION SUBSIDY AGREEMENT

ADOPTION SUBSIDY AGREEMENT BETWEEN THE SOCIAL SERVICES DISTRICT AND ADOPTIVE PARENT(S)

NOTE: Please read this **Agreement** and your copy of the **Summary of New York's Adoption Subsidy Program** carefully. The Adoptive Family has the right to consult with an attorney before they sign the Agreement. The Adoptive Family must sign and receive a copy of this Agreement. An application must be submitted and receive final approval before finalization of the adoption to comply with Federal mandates (except in the case of a post-finalization application).

NOTE: ICPC must be complete for all out of state adoption placements.

Please Check One:

Initial Application

Upgrade Amendment
(for previously approved subsidy)

Post Finalization Request
(for adoptions finalized without subsidy)

Technical Agreement
(for name change or transfer of guardianship)

SECTION I

CHILD INFORMATION

Child's First Name: _____

Child's Date of Birth: _____
MONTH/DAY/YEAR

Date Child Freed for Adoption: _____
MONTH/DAY/YEAR

Date Adoptive Placement Agreement Signed: _____
MONTH/DAY/YEAR

Date Child Entered Adoptive Home: _____
MONTH/DAY/YEAR

Date of Disruption from Previous Adoption Placement (if Any): _____
MONTH/DAY/YEAR

Date Adoption was Finalized (Application Following Finalization): _____
MONTH/DAY/YEAR

NAME AND ADDRESS OF LOCAL DISTRICT

Name: _____

Address: _____

City: _____ State: _____

County: _____ Zip: _____

Worker's Name: _____

Worker's Phone: _____ Ext.: _____

FULL NAME AND ADDRESS OF ADOPTIVE PARENT(S):

Adoptive Mother: _____

Adoptive Father: _____

Address: _____

City: _____ State: _____

County: _____ Zip: _____

Phone: _____

NAME AND ADDRESS OF AGENCY PLACING THE CHILD (if applicable)

Name: _____

Address: _____

City: _____

County: _____ Zip: _____

Worker's Name: _____

Worker's Phone: _____ Ext.: _____

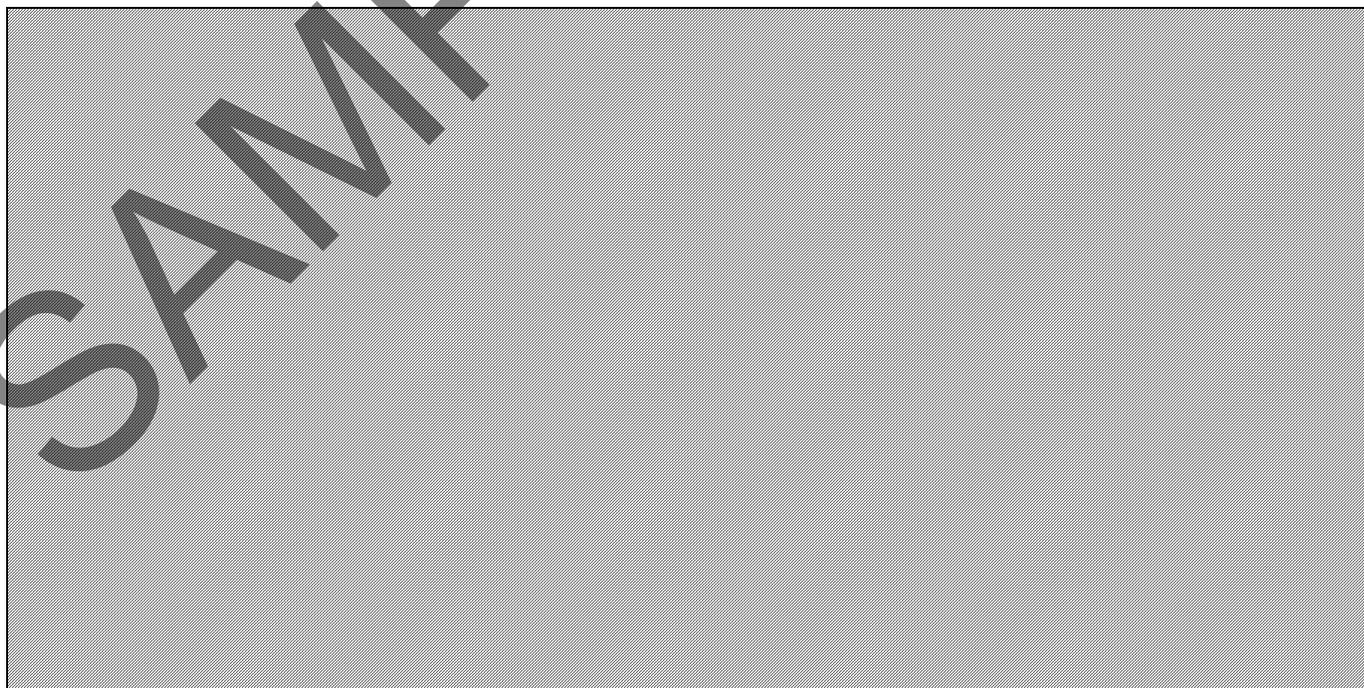
**SECTION II
PURPOSE OF THE AGREEMENT**

Both Federal and State law require that payments for an adoption subsidy must be made in accordance with a written agreement. This subsidy agreement form will enable your agency worker and/or district worker to determine which adoption subsidy you will receive on behalf of the child you are planning to adopt.

New York's Adoption Subsidy Program provides for subsidy to all persons adopting eligible children without regard to the adoptive parent(s)' income. However, there are a number of factors that determine the extent and form of benefits that will be provided. These are explained in the Summary of New York's Adoption Subsidy Program which is attached to this Agreement and is incorporated herein (see appendix A). This Agreement will clearly spell out the benefits to be provided, and identify the provisions affecting those benefits. It will also specify the circumstances under which the benefits may be changed in the future and whether such changes require a new Agreement and State approval or only an addendum to this Agreement.

Once this form is completed and signed by the adoptive parent(s) and the appropriate social services district and receives final approval by OCFS, it constitutes a contract between the adoptive parent(s) and the local district subject to the laws of the State of New York and the regulations of OCFS. You will be given a copy of the signed Agreement. You should retain your copy along with the Summary of New York's Adoption Subsidy Program.

Do not write anything in this space.



**SECTION III
TYPE OF SUBSIDY CONDITION**

The child is eligible for subsidy if one or more of the items below are checked. **(Complete A or B)**

A HARD-TO-PLACE CHILD

A child other than a handicapped child:

1. who has not been placed for adoption within six months from the date his or her guardianship and custody were committed to the authorized agency;

OR

2. who has not been placed for adoption within six months from the date a previous adoption placement terminated and the child was returned to the care of the authorized agency;

OR

3. who is one of a group of two siblings (including half-siblings) who are free for adoption and it is considered necessary that the group be placed together pursuant to 18NYCRR 421.2(e) and 421.18(d);

AND

- a. at least one of the children is five years old or older;

OR

- b. at least one of the children is a member of a minority group which is substantially over-represented in New York State foster care in relation to the percentage of that group to the State's total population;

OR

- c. at least one of the children is otherwise eligible for subsidy;

OR

4. who is the sibling or half-sibling of a child already adopted by a family and it is considered necessary that such children be placed together pursuant to 18NYCRR 421.2(e) and 421.18(d);

AND

- a. the child to be adopted is five years old or older;

OR

- b. the child is member of a minority group which is substantially over-represented in New York State foster care in relation to the percentage of that group to the State's total population;

OR

- c. the siblings or half-sibling already adopted is eligible for subsidy or would have been eligible for subsidy if an application had been made at the time of or prior to adoption;

5. who is one of a group of three siblings (including half-sibling) who are free for adoption and it is considered necessary that the group be placed together pursuant to 18NYCRR 421.2(e) and 421.18(d);

OR

6. who is eight years old or older and is a member of a minority group which is substantially over-represented in New York State foster care in relation to the percentage of that group to the State's total population;

OR

7. who is 10 years old or older;

OR

8. who is hard to place with parent(s) other than his/her present foster parent(s) because he/she has been in care with the same foster parent(s) for 18 months or more prior to the signing of the adoption placement agreement by such foster parent(s) and has developed a strong attachment to his/her foster parent(s) while in their care such that separation from them would adversely affect the child's development.

B. HANDICAPPED CHILD

A child who possesses a specific physical, mental or emotional condition or disability of such severity or kind which, in the opinion of OCFS, would constitute a significant obstacle to the child's adoption. Such conditions include but are not limited to **(check all that apply)**:

1. A medical or dental condition which will require repeated or frequent hospitalization, treatment or follow-up care;
2. A 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, as provided in the Education Law (Sections 1002 and 4001), or makes or may be expected to make a child handicapped as provided in the Public Health Law (Section 2581);
3. A substantial disfigurement, such as the loss or deformation of facial features, torso or extremities; **or**

4. a diagnosed personality or behavior problem, psychiatric disorder, serious intellectual incapacity or brain damage which seriously affects the child's ability to relate to his peers and/or authority figures, including mental retardation or developmental disability.

CHILD DIAGNOSIS:

Medical terms:

Lay terms:

NOTE: CURRENT DOCUMENTATION OF THE ABOVE STATED DIAGNOSIS FROM REQUIRED PROFESSIONALS (physician, psychiatrist or psychologist) MUST BE SUBMITTED.

**SECTION IV
ELIGIBILITY FOR FEDERAL ADOPTION ASSISTANCE**

The child will be eligible for federal adoption assistance under Title IV-E of the Social Security Act if **both** of the following items below are checked.

- The child is handicapped or hard-to-place (for reasons other than not having been placed within six months after freeing or disruption);

AND

- The child has met the federal eligibility requirements at the time the adoption petition is filed (this should be checked if the child was in receipt of or eligible for Title IV-E or SSI on the date the adoption placement agreement was signed; if this eligibility status is changed between that date and the date the petition is filed, an amended agreement must be prepared and presented to the parent(s).

NOTE: LDSS-3912A (Appendix A-1) must be completed and included for children in the guardianship and custody of voluntary authorized agencies.

SECTION V
MEDICAL ASSISTANCE / MEDICAL SUBSIDY

Medical Assistance is available for a child who is eligible for Title IV-E. Also, a child who meets the criteria of the Consolidated Omnibus Budget Reconciliation Act of 1985 for AFDC, SSI or minor parent infant foster care, is eligible to receive Medical Assistance. Medical Assistance provides coverage for eligible medical care, services or supplies obtained from a provider enrolled in the Medical Assistance program. No payment may be made for services covered by insurance or other third party payments. Medical Assistance for hard-to-place children who are Title IV-E eligible usually ends at age 18.

Medical Subsidy is available for a child who is not eligible for Medical Assistance and the child is hard to place and the adopting parent is 62 years old or over, or subject to mandatory retirement from his or her present employment within five years of the adoption placement or the child is handicapped. Medical Subsidy is limited to the costs of medical care, services and supplies covered under the Medical Assistance program for which there is no reimbursement from third party insurance, Medical Assistance or any other source. Providers do not have to be enrolled in the Medical Assistance program. However, payment is limited to amounts not to exceed those established for the Medical Assistance program.

Check all that apply:

- Until adoption finalization, the medical expenses of the foster child will continue to be paid through foster care.
- Child is Title IV-E eligible and handicapped, and will be covered by Medical Assistance from the date of legal adoption up to 18; or up to 21 if the handicapping condition warrants continuation of assistance. If Title IV-E eligibility is discontinued at age 18, the child will be covered by NYS Medical Subsidy from age 18 to 21, providing that the child remains dependent.
- Child is handicapped and is COBRA eligible, and will be covered by Medical Assistance from the date of legal adoption up to age 18; or up to 21 if the handicapping condition warrants continuation of assistance, providing that the child remains dependent.
- Child is handicapped but is neither Title IV-E eligible or COBRA eligible, and will be covered by NYS Medical Subsidy from the date of legal adoption up to age 21, providing that the child remains dependent.
- Child is Title IV-E eligible and hard-to-place, and will be covered by Medical Assistance up to age 18.
- This child is Title IV-E eligible and is being adopted by person(s) within five years of mandatory retirement age, or 62 or over, and will be covered by NYS Medical Subsidy from age 18 to 21, providing that the child remains dependent.
- Child is not Title IV-E eligible but is hard-to-place and is being adopted by person(s) within five years of mandatory retirement or age 62 or over. The child will be covered by NYS Medical Subsidy from the date of legal adoption up to age 21, providing that the child remains dependent.
- Child is not eligible for either Medical Assistance or NYS Medical Subsidy, as a result of legal adoption.

**SECTION VI
MAINTENANCE SUBSIDY CALCULATIONS**

Complete Part A *only* if your local district does NOT use income in subsidy determination. Otherwise, leave Part A *Blank* and complete Part B. Regardless of whether you filled out Part A or Part B, make sure you complete Part C.

PART A – PARENT(S) INCOME NOT FACTORED INTO SUBSIDY DETERMINATION

Monthly payments for the care of the child to be adopted (maintenance subsidy) will be paid if the child is eligible regardless of the adoptive family's income. **However, it is the responsibility of the adoptive parent(s) to inform the social services district when they are no longer legally responsible for the child or no longer providing any support to the child.**

- A. Per Diem Subsidy Board Rate..... _____
- B. Per Diem Clothing Rate..... _____
- C. Per Diem Diaper Allowance (time limited)..... _____
- D. Per Diem Rate for Child of Adoptee if applicable..... _____
- E. Per Diem Rate **Total** (sum of all per diems A-E listed above)..... _____

DO NOT ENTER ANYTHING IN THE SPACE BELOW.



Complete Part B *only* if your local district **USES** income in subsidy determination. Otherwise, leave Part B *blank* and complete Part A above. Regardless of whether you filled out Part A or Part B, you must complete Part C.

PART B – PARENT(S) INCOME USED IN CALCULATING SUBSIDY

The monthly payment will be calculated based in part on a per diem rate and will therefore slightly vary from month to month depending on the number of days in a month.

- A. Parent(s) Annual Income _____
- B. Family size including child to be adopted _____
- C. Income at which 100% Subsidy is required..... _____
- D. Ratio of Family Income to Income requiring 100% Subsidy (A/C) _____
- E. Percent of Board Rate to be paid _____
- F. Per Diem Subsidy Board Rate for Child _____
- G. Per Diem Rate of Child of Adoptee if applicable _____
- H. Per Diem Clothing Rate..... _____
- I. Per Diem Diaper Allowance (time limited) _____
- J. Per Diem Rate **Total** (sum of all per diems A-I listed above) _____

The adoptive parent(s) must present to the social services district evidence of income comprising wage stubs or an employer’s statement of wages and a copy of the latest Federal income tax return. The social security numbers of the adoptive parent(s) should be included in this information.

ALL DISTRICTS MUST COMPLETE PART C BELOW

PART C

Level of child’s current board rate (check one):

- Basic
 Special
 Exceptional

Check this box if your district pays different levels of special or exceptional rates.

Special Specify:

Exceptional Specify:

**SECTION VII
ADJUSTMENT OF MAINTENANCE PAYMENTS**

Maintenance payments will be increased whenever the _____
SPECIFY SOCIAL SERVICES DISTRICT
increases the room and board rate and/or the clothing replacement allowance:

Note: Neither the written agreement nor the amount of the maintenance payment will be subject to an annual review. Pursuant to regulations of the Office of Children and Family Services, adoptive parent(s) may request a change in the amount paid under the agreement. A request for an increase in the amount paid must be accompanied by an amended Agreement along with documentation of the child's disabilities. The decision to grant the increase is at the discretion of the social services district and OCFS officials. Upon approval of the application by OCFS, any increase will be retroactive to the date the social services district approves the application for the rate increase. OCFS reserves the right to establish an earlier date than the social service district approval if the office determines that the social services district unreasonably delayed making a decision concerning the application for the rate increase; but in no event will the rate increase be approved prior to the date of the parent(s) signature on the application for an increased rate.

Note: A request for a change in the amount paid for a child in the guardianship and custody of a voluntary authorized agency must be approved by OCFS unless a local social services district is authorized by OCFS to approve such payments.

**SECTION VIII
DATE SUBSIDY IS EFFECTIVE
(MAINTENANCE AND WHERE ELIGIBLE MEDICAL)**

Choose **one** of the following:

- Date of Legal Adoption _____
- Date subsidy was approved by district or state official _____
MONTH/DAY/YEAR
- Other (Provide Date and Explanation)

Date: _____
MONTH/DAY/YEAR

Reason:

I/We the adoptive parent(s) have received and read the "Summary of NEW YORK'S ADOPTION SUBSIDY PROGRAM".

I/We the adoptive parent(s) have been given an opportunity to examine the Agreement as completed and to discuss it with my/our attorney and have read this Agreement and fully understand the content thereof.

ADOPTIVE MOTHER'S SIGNATURE DATE (Month/Day/Year)

ADOPTIVE FATHER'S SIGNATURE DATE (Month/Day/Year)

LOCAL DSS OFFICIAL'S SIGNATURE DATE (Month/Day/Year)
(Must be the same date or later date than parent Signature)

APPROVED DENIED

Level Of Rate Approval by Local Social Services District:

Basic Special Exceptional

NEW YORK STATE ADOPTION SERVICES

NYSAS OFFICIAL'S SIGNATURE* DATE (Month/Day/Year)

APPROVED DENIED

Level Of Rate Approved by New York State Adoption Services:

Basic Special Exceptional

This AGREEMENT has been approved by the New York State Adoption Services of the Office of Children and Family Services for:

- Federal participating Maintenance Subsidy and Medical Assistance pursuant to Title IV-E of the Social Security Act.
- Non-federal participating Maintenance and Medical Assistance pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1995.
- Non-federal participating Maintenance Subsidy and Medical Subsidy pursuant to Sections 450-458 of the Social Services Law.
- Non-federal participating Maintenance Subsidy only pursuant to Sections 450-458 of the Social Services Law.
- Non-federal participating Medical Subsidy only pursuant to Section 454 of the Social Services Law.

* Completed by NYSAS unless the local social service district has written authorization from the Office of Children and Family Services to act as the final reviewer.

SUMMARY OF NEW YORK'S ADOPTION SUBSIDY PROGRAM

(A copy is to be given to Adoptive Parent(s) with each Subsidy Agreement)

The following is a summary of the New York State Adoption Subsidy Program. If you have additional questions concerning adoption subsidy, please consult your social worker or call the New York State Adoption Services (NYSAS) toll free at 1-800-345-5437. If you have questions concerning Medical Assistance please contact your local social services district.

1. The State legal authority for the adoption subsidy program is found in Sections 450-458 of the Social Services Law (SSL) and Section 421.24 of Title 18 of the New York State Codes, Rules and Regulations (NYCRR). The applicable federal authority is Title IV-E of the Social Security Act (Sections 470-479).
2. An AGREEMENT for maintenance subsidy will remain in effect until the child's 21st birthday, provided that the child's adoptive parent(s) remain legally responsible for the child and the child's adoptive parent(s) provide any support to the child. **Adoption subsidy payments may no longer be made where the adoptive parent(s) are no longer responsible for the support of the child or the child is no longer receiving any support from the adoptive parent(s).**

Where the AGREEMENT has been approved by OCFS for federal participating Maintenance Subsidy and Medical Assistance, the adoptive parent(s) may be required to provide documentation as to the child's mental or physical handicap when the child is eighteen years old in order to meet federal requirements and/or continue to be eligible for Medical Assistance. **Should your adopted child require replacement into foster care, it is possible that you could be required to provide financial support to offset at least part of the cost of care.**

3. Maintenance Subsidy will generally not begin until an adoption is finalized for the child in the guardianship and custody of a social services official, and will begin from the date the subsidy agreement is approved for the child in the guardianship and custody of the voluntary authorized agency. Families adopting eligible children receive a monthly payment regardless of family income. The amount of this subsidy is calculated in Section VI of this agreement and it is based on the board rate for the child. It may also be affected by the family income and size of the family. Where this is a factor, Section VI will show the calculation. The applicable board rate will be:
 - (i) in case of a child in the guardianship and custody of a social services official and placed out for adoption, the board rate of the social services district placing the child for adoption or of the social services district in which the adoptive parent(s) reside(s), at the discretion of the placing district; or
 - (ii) in the case of a child in the guardianship and custody of a social service official and adopted by parent(s) residing outside the State, the board rate governing in the social services district which had guardianship and custody of the child; or
 - (iii) in the case of a child in the guardianship and custody of a voluntary authorized agency and placed out for adoption with adoptive parent(s) residing in the same district, the board rate of such district; or
 - (iv) in the case of a child in the guardianship and custody of a voluntary authorized agency and placed out for adoption with adoptive parent(s) residing in another district, the board rate of such other district; or
 - (v) in the case of a child in the guardianship and custody of a voluntary authorized agency and adopted by parent(s) residing outside the State, the board rate of the district where the voluntary authorized agency has its principal office or business.

The social service district determined to be the applicable district in executing the AGREEMENT will remain the applicable district regardless of where the family subsequently moves. The AGREEMENT will remain in effect regardless of the State in which the adoptive parent(s) reside at any time.

The adoptive parent residing outside New York State who experiences a problem regarding the payment of subsidy under this AGREEMENT may request assistance from the New York Office of the Interstate Compact

on the Placement of Children (ICPC) at 1-800-345-5437, or through the ICPC office in the state in which he or she resides.

A parent who experiences a problem regarding medical services as provided under this AGREEMENT may request assistance from the New York State Department of Health or your local social services district.

4. Where an AGREEMENT provides for medical benefits:
 - (i) Medical Assistance coverage will be provided only for the costs of such care, services and supplies as may be authorized under the State's program of Medical Assistance for Needy Persons according to the provisions of Article 3 and Article 4 of Subchapter E of the Medical Assistance regulations of Title 18 of the New York State Code of Rules and Regulations (NYCRR).
 - (ii) Medical subsidy payments must be made only for the cost of care, services for which the child or the adoptive parent(s) will not receive payment or reimbursement from insurance, Medical Assistance or other sources.
 - (iii) Medical subsidy payments may not be limited to the particular condition for which a child was determined to be a handicapped child but must be made for all care, services and supplies payable under State's program of Medical Assistance to Needy Persons. The amount of such payments will not exceed the schedules of payments for such care, services and supplies as contained in Article 4 of Subchapter E of Title 18 of the New York Codes, Rules and Regulations.
 - (iv) The AGREEMENT for medical subsidy payments will not be subject to review or change, except that the social services official may request, at the social services official's discretion, either annually and/or at the submission of any claim, information about medical insurance or other coverage from the adopting person(s) in order to determine compliance with paragraph (ii).
5. The adoptive parent(s) must inform the social services district of any changes in the residential or dependency status of the child including circumstances which would make them ineligible for such assistance as well as any circumstances which would make them eligible for assistance payments in a different amount.
6. Upon the death of the person(s) who adopted the child, payment made pursuant to this AGREEMENT must be made to the legal guardian(s) of the child until the child's 21st birthday, provided that at the time of death the child's adoptive parent(s) was legally responsible for the child and the child's adoptive parent(s) provided any support to the child.
7. Any person aggrieved by the decision of a social services district official or the New York State Office of Children and Family Services not to make a payment pursuant to this section or by a decision to make such payment in an inadequate or inappropriate amount, or by the failure of such official to determine an application within 30 days after it is filed may appeal to the New York State Office of Children and Family Services and request a fair hearing thereon. A request for a fair hearing must be made within 60 days after notice of the agency's decision. The only issues which may be raised at a fair hearing are:
 - (i) whether the official of the social services district or the New York State Office of Children and Family Services has improperly denied an application for subsidy including the failure to issue a determination of an application within 30 days of its filing; or
 - (ii) whether the official of the social services district or the New York State Office of Children and Family Services has determined the amount of payment made or to be made in violation of the provisions of law or regulation; or
 - (iii) whether the official of the social services district or the New York State Office of Children and Family Services has improperly discontinued payments made under this AGREEMENT.

The adoptive parent(s) may request a fair hearing by writing the New York State Office of Children and Family Services, Fair Hearing Unit, 52 Washington Street, Rensselaer, NY 12144-2796. Additional rights regarding the fair hearing process to which the adoptive parent is entitled are set forth in Section 455 of the SSL and Section 421.24(g) and Part 358 of Title 18 of the New York Codes, Rules and Regulations.

PLEASE NOTE: Federal and state tax credits may be available. It is recommended that you consult a tax specialist or the IRS to determine your eligibility, and that you check any impact of a non-recurring adoption expense payment on those credits.

THIS IS THE FINAL PAGE OF THE SUBSIDY AGREEMENT