TITLE 465 DEPARTMENT OF CHILD SERVICES

Proposed Rule
LSA Document #10-417

DIGEST

Adds 465 IAC 2-17, concerning child placing agencies licensed by the department under IC 31-27-6, to establish the mechanisms the department will use for setting maintenance payments to foster family homes licensed and supervised through child placing agencies and payments for child placing agency administrative costs and other services provided through the agency and to describe outcome measures that the department may consider in contracting with child placing agencies for placement of children and provision of services. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

465 IAC 2-17

SECTION 1. 465 IAC 2-17 IS ADDED TO READ AS FOLLOWS:

Rule 17. Rate Setting for Child Placing Agencies

465 IAC 2-17-1 Scope and purpose

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 1. (a) Every CPA in the state of Indiana must be licensed by the department in accordance with state law in order for the department to recommend placement of a child with a CPA or pay for the costs of such placement.

(b) This rule establishes the procedures the department will use for determining and making maintenance payments to or for foster parents of children placed by the department with a CPA for foster care in a licensed foster home and administrative payments to child placing agencies in the state of Indiana.

(Department of Child Services; 465 IAC 2-17-1)

465 IAC 2-17-2 Applicability of definitions

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 2. The definitions in sections 3 through 18 of this rule apply throughout this rule.

(Department of Child Services; 465 IAC 2-17-2)

465 IAC 2-17-3 "Administrative payment" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 3. "Administrative payment" means the payment for reasonable costs related to administration of the CPA. The administrative payment for CPAs shall cover the following reasonable costs, relating to identification of foster family homes, placement of children referred by the department for care in foster family homes supervised by the CPA, and provision of services to the foster families and children placed with the CPA, including, but not limited to:

(1) Case work.
(2) Case management.
(3) Foster home recruiting.
(4) Foster home licensing preparation and maintenance.
(5) Foster parent training.
(6) General administration and management.
(7) Accounting and finance.
(8) Human resources.
(9) Management information systems.
(10) Quality assurance procedures.
(11) Legal expenses, other than fees and costs related to certain litigation.
(12) Office supplies.
(13) Professional fees and dues.
(14) Subscriptions.
(15) Printing and postage.
(16) Independent living services.
(17) Medical examinations required as a condition of employment.
(18) A reasonable profit margin if the agency is a for-profit entity.

(Department of Child Services; 465 IAC 2-17-3)

465 IAC 2-17-4 "Approved department assessment tool" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 4. "Approved department assessment tool" means a department designated, child-appropriate instrument for the assessment of child functional impairment. The approved department assessment tool is used by the department to assist in assessing the needs and strengths of children within the department's system of care.

(Department of Child Services; 465 IAC 2-17-4)

465 IAC 2-17-5 "Child placing agency" or "CPA" defined

Authority: IC 31-25-2-18
Affected: IC 31-9-2-17.5; IC 31-25-2-7; IC 31-27-6

Sec. 5. "Child placing agency" or "CPA" have the definition set forth in IC 31-9-2-17.5.

(Department of Child Services; 465 IAC 2-17-5)

465 IAC 2-17-6 "Cost report" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 6. (a) "Cost report" means a report that the department requires each CPA to complete for each foster care program that the CPA operates or supervises.

(b) The cost report shall include the following:
(1) Actual costs incurred on behalf of each foster care program in the most recently completed CPA fiscal year, or in an alternative twelve (12) month period as specified by the department.
(2) Any other information relating to determination of the cost of operating or supervising the program that is specified by the department, or that the CPA considers relevant to determination of its reasonable administrative costs relating to the program, consistent with the applicable provisions of this rule.

(Department of Child Services; 465 IAC 2-17-6)

465 IAC 2-17-7 "Critical case juncture" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 7. "Critical case juncture" means an event or episode, as determined by the department, involving the child or family that has caused or may cause a disruption in the child's placement.

(Department of Child Services; 465 IAC 2-17-7)

465 IAC 2-17-8 "Department" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-1-1; IC 31-25-2-7; IC 31-27-6

Sec. 8. "Department" means the Indiana department of child services established by IC 31-25-1-1.

(Department of Child Services; 465 IAC 2-17-8)

465 IAC 2-17-9 "Enhanced supervision" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 9. "Enhanced supervision" means additional daily supervision that a foster parent will be required to provide for a child with extraordinary needs, as assessed using the approved department assessment tool.

(Department of Child Services; 465 IAC 2-17-9)

465 IAC 2-17-10 "Family case manager" or "FCM" defined

Authority: IC 31-25-2-18
Affected: IC 31-9-2-11; IC 31-25-2-5; IC 31-25-2-7; IC 31-27-6

Sec. 10. "Family case manager" or "FCM" means a caseworker, as defined in IC 31-9-2-11, who is described in IC 31-25-2-5.

(Department of Child Services; 465 IAC 2-17-10)

465 IAC 2-17-11 "Family case manager supervisor" or "FCMS" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 11. "Family case manager supervisor" or "FCMS" means an employee of the department who supervises an FCM.

(Department of Child Services; 465 IAC 2-17-11)

465 IAC 2-17-12 "Foster home" defined

Authority: IC 31-25-2-18

Affected: IC 31-25-2-7; IC 31-27-4-14; IC 31-27-6

Sec. 12. "Foster home" means a home that is:
(1) licensed under IC 31-27-4 upon recommendation of a licensed child placing agency, as provided in IC 31-27-4-14; and
(2) operated, supervised, and monitored by a licensed child placing agency.

(Department of Child Services; 465 IAC 2-17-12)

465 IAC 2-17-13 "Maintenance payment" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 13. "Maintenance payment" means payments to cover the reasonable cost of, and the reasonable cost of providing, the following items on behalf of a child placed by the department with a CPA:
(1) Food.
(2) Clothing.
(3) Shelter.
(4) Daily supervision.
(5) Liability insurance with respect to the child.
(6) Personal incidentals for the child.
(7) School supplies.

(Department of Child Services; 465 IAC 2-17-13)

465 IAC 2-17-14 "Nonprofit entity" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 14. "Nonprofit entity" means a CPA that has been determined to be exempt from federal income taxation by the Internal Revenue Service or otherwise operates under such an exemption pursuant to the Internal Revenue Code of 1986, as amended.

(Department of Child Services; 465 IAC 2-17-14)

465 IAC 2-17-15 "Public hearing" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 15. "Public hearing" means a hearing, open to the public, for the department to accept comments, suggestions, and feedback related to annual review of the maintenance payment and administrative payment as set by the mechanisms in this rule.

(Department of Child Services; 465 IAC 2-17-15)

465 IAC 2-17-16 "Reasonable costs" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 16. "Reasonable costs" shall have the meanings as described in the following:
(1) 2 CFR Part 225 (OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal

Governments).
(2) 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations).
(3) 48 CFR Part 31, Section 201-3 (Determining Reasonableness).

(Department of Child Services; 465 IAC 2-17-16)

465 IAC 2-17-17 "Title IV-E" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 17. "Title IV-E" means the following:
(1) Title IV-E of the Social Security Act as codified in 42 U.S.C. 671 et seq.
(2) Regulations of the U.S. Department of Health and Human Services, Administration on Children, Youth and Families (ACYF), applicable to Title IV-E of the Social Security Act, as codified in 45 CFR Part 1355 and 45 CFR Part 1356.
(3) Official interpretations of Title IV-E of the Social Security Act and applicable regulations by the federal administering agency, as published in the Child Welfare Policy Manual issued by the Children's Bureau of the ACYF.

(Department of Child Services; 465 IAC 2-17-17)

465 IAC 2-17-18 "Travel expenses" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 18. "Travel expenses" means reasonable expenses incurred by a foster family or CPA for the following purposes:
(1) Travel between the foster family home and the home of the child's family for visitation, to the extent required by, or consistent with, the child's individual case plan.
(2) Travel between the foster family home and the school in which the child was enrolled before placement and continues to be enrolled while residing with the foster family, to the extent that school transportation is not provided or required to be provided under applicable Indiana law by a public school corporation or other state or local agency.

(Department of Child Services; 465 IAC 2-17-18)

465 IAC 2-17-19 Outcome measures

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 19. (a) The services provided by the CPA may be measured by the following outcomes at intake, discharge, and follow-up for the child. These outcomes will be specified by contract with or communication from the department and may include, but not be limited to, the following:
(1) Clinical outcomes.
(2) Functional outcomes.
(3) Effectiveness of placement.
(4) Consumer satisfaction.
(5) Risk factors.

(b) Based on these outcomes, and other outcomes measured by the department from time to time, the department may, in its discretion, take action, which may include, but is not limited to:
(1) adjusting recommendations for placement or placements or services to be provided;
(2) revising individual child permanency or case plans; or
(3) amending or otherwise renegotiating its contractual relationship with a CPA.

(Department of Child Services; 465 IAC 2-17-19)

465 IAC 2-17-20 Annual public comment period; public hearing

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 20. (a) An annual period of public comment will be open for at least thirty (30) days preceding an annual public hearing. The public comment time period will allow each CPA and other interested persons or organizations to communicate ideas, suggestions, or other comments regarding the rate setting methodology in writing or via e-mail to the department at an address specified in notices posted by the department on its website.

(b) At least one (1) public hearing regarding the rate setting methodology will be held on an annual basis at an address specified in a notice posted by the department on the department's website.

(c) Notice of a public hearing will be posted on the department's website for a period of at least thirty (30) consecutive days immediately before the date scheduled for the hearing.

(d) The department may, in addition to posting information on its website, provide public notice of the time and place of a scheduled public hearing through advertisement or publication in news media or posting in locations accessible to the public.

(Department of Child Services; 465 IAC 2-17-20)

465 IAC 2-17-21 Payments to foster parents

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 21. (a) Every child under the care and control of the department in a foster home setting is entitled to a maintenance payment. The foster parent or parents will receive a maintenance payment in the form of a per diem payment. All payments will be made monthly, at the time and in the manner determined by the department, for foster care provided during the preceding calendar month. The department will determine the maintenance payment that will be paid to all foster parents.

(b) The amount of a maintenance payment payable as provided in this section may vary based upon the age of the child.

(c) The foster parent or parents, or the supervising CPA, may receive an additional amount of properly claimed travel expenses, as defined in section 18 of this rule, incurred for a child placed in the foster home.

(d) The foster parent or parents may receive an additional amount for enhanced supervision which amount shall be indicated by the approved department assessment tool and approved by the local office director of the department.

(e) The department will publish the current maintenance payment and the enhanced supervision rates in a provider manual maintained by the department on the department's website.

(f) Except as provided in this subsection, the department will not pay an additional amount for enhanced supervision until after the approved department assessment tool has been completed. The department may, in exceptional circumstances, as determined by the department, pay an amount greater than the maintenance payment at the time of placement and before completion of the approved

department assessment tool. In considering whether to approve a greater payment under this subsection, the department shall consider the child's specific, previously identified needs for enhanced supervision that would require additional payment of a temporary enhanced supervision amount prior to the determination of an appropriate enhanced supervision amount under subsection (d).

(g) The amount of the maintenance payment and the amount of the payment for enhanced supervision will be reviewed annually.

(h) To the extent consistent with the child's assessed needs, a foster parent may also receive payment for costs of caring for a child that are not included in the maintenance payment, if such costs are determined by the department to be prudent and reasonably necessary in order to serve the child's needs in connection with the child's permanency plan or other plan of care and treatment. The department will pay for those approved costs in accordance with department policies as such policies are published by the department from time to time.

(i) The department may, at its discretion, develop and implement pilot programs by written agreement with a CPA, relating to a foster home or group of foster homes that the CPA supervises, and that may include payment amounts or procedures during a specified time period that differ from the amounts or procedures determined under this section.

(j) Effective January 1, 2012, the department may make maintenance payments and enhanced supervision payments directly to the foster parent or foster parents who are supervised by the CPA.

(Department of Child Services; 465 IAC 2-17-21)

465 IAC 2-17-22 Independent review of the maintenance payment

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 22. (a) The department shall commission an independent contractor to conduct a study, using primary and secondary data, to assist the department with the determination of the reasonable costs of caring for a foster child in Indiana in accordance with requirements and guidelines as set forth in Title IV-E.

(b) The study will consider the age of a child and the relevant costs associated with the care of children, including children in foster care.

(c) From this study, the independent contractor will construct a model of maintenance payments. The study will provide information to the department so that the department can establish appropriate maintenance payment rates. The completed study will provide the methodology for calculating future adjustments to maintenance payments, if any, as underlying costs change.

(Department of Child Services; 465 IAC 2-17-22)

465 IAC 2-17-23 Allowable costs in the administrative payment; cost report required

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 23. (a) The department will make payments to each CPA for reasonable costs related to administration of the CPA, based on the administrative payment approved by the department for that CPA.

(b) Any payments made to a CPA will be made pursuant to a written agreement that is in a form

specified by the department and executed by the parties.

(c) The department will maintain and publish a list of all CPA administrative payments.

(d) Each CPA shall submit to the department a cost report on an annual basis at the time and in the form required by the department. Failure to submit the cost report timely may result in delay in payment or nonpayment by the department for administrative costs incurred or services rendered by the CPA.

(e) The department will review each cost report for reasonableness and eligibility under Title IV-E and other federal guidance. The department may, in its discretion, adjust historical costs to reflect current costs. For costs that are not eligible under Title IV-E, the department will review the cost report for allowability as determined by the department. Based on that review, the department will submit to the CPA a final approved cost report that the department will use in calculating the applicable rates.

(f) To be allowable, a cost must relate to one (1) or more of the categories described in section 3 of this rule. The cost must also satisfy the following criteria:
(1) The cost is ordinary, reasonable, necessary, and related to the direct care of children.
(2) The cost is related to goods or services actually provided by the CPA.

(g) The department will mail to the CPA a letter (notice letter) stating the administrative payment or payments that the department agrees to pay, for each applicable program for children whom the department has placed or may place with the CPA. The notice letter will include the effective date of the new approved administrative payment or payments as approved by the department. The effective date will be the first day of a calendar month that is not less than thirty (30) days after the date of the letter.

(h) If the CPA accepts the administrative payment offered by the department in the notice letter, such administrative payment shall amend any agreement containing payment rates that include administrative costs for placements currently in effect between the CPA and the department.

(i) If the CPA does not accept the administrative payment offered by the department in the administrative payment notice letter, the CPA must notify the department no later than thirty (30) days following the CPA's receipt of the administrative payment notice letter that was mailed to the CPA in accordance with subsection (g). Upon receipt of such notification, the department will no longer make recommendations for placement of children with the CPA for services to which the rejected administrative payment would apply.

(j) If a court orders placement of a child with a CPA contrary to the recommendation of the department, the department will be responsible for payment only in the amount stated in the most recent administrative payment notice letter that was mailed to the CPA in accordance with subsection (g).

(k) The department will continue to pay the CPA an administrative payment applicable to any child placed with the CPA, based on the administrative payment in effect at the time of placement, if the CPA does not accept a new administrative payment specified in an administrative payment notice letter described in subsection (g). However, the department may, subject to approval of the court having jurisdiction over the child, move the child to another placement, if the change of placement is consistent with the welfare and best interests of the child.

(l) Each cost report submitted under subsection (d) is subject to further review or audit by the department. Such a review or audit may result in an administrative payment adjustment as specified in a new administrative payment notice letter issued and mailed to the CPA.

(m) If the CPA has not been licensed, or operated a program for which an administrative payment is required, for a period of at least twelve (12) months before the cost report is due to the department, the CPA shall submit a cost report utilizing a comprehensive twelve (12) month operating budget for the new program at least ninety (90) days before the start of the program. The department will utilize its rate setting methodology as provided herein to establish an administrative payment for the new program. The

cost report shall be in the form specified or approved by the department.

(Department of Child Services; 465 IAC 2-17-23)

465 IAC 2-17-24 Offsetting revenue and netting

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 24. (a) Eligible cost reimbursement offsetting will be applied as a credit in accordance with federal regulations as identified by 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations). The resulting net cost will be used to establish the administrative payment.

(b) Applicable credits refers to those receipts, or reduction of expenditures that operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions include, but are not limited to, the following:
(1) Purchase discounts.
(2) Rebates or allowances.
(3) Recoveries or indemnities on losses.
(4) Insurance refunds.
(5) Adjustments of overpayments or erroneous charges.
To the extent that such credits accruing or received by the CPA relate to allowable cost, they shall be credited to the department either as a cost reduction or cash refund, as appropriate.

(c) In some instances, the amounts received from the department to finance CPA activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures will be applied by the department in determining the administrative payment.

(Department of Child Services; 465 IAC 2-17-24)

465 IAC 2-17-25 Unallowable costs in the administrative payment

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 25. (a) Expenditures for the services listed in this subsection are ineligible costs under Title IV-E. The following services may be provided and paid for only upon separate authorization from the department, or as specified in the individual placement agreement for a particular child:
(1) Counseling.
(2) Therapy.
(3) Health and medical services or treatment.

(b) Consistent with federal guidelines, the department will not pay any CPA for certain unallowable expenses and costs, as specified in subsections (c) and (d). The unallowable costs and expenses will not be considered by the department in calculating the administrative payment. The unallowable costs and expenses as listed in subsections (c) and (d) must be paid with funds secured from a funding source other than the department.

(c) The following costs are unallowable:
(1) Fines and penalties resulting from violations of or failure of the organization to comply with federal, state, or local laws and regulations, except when incurred as a result of compliance with specific provisions a contract with the department or instructions in writing from the department.
(2) Investment management counsel and staff and similar expenses incurred solely to enhance income from investments.
(3) Lobbying as defined in 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations).

(4) Organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions.
(5) Donations and contributions, including cash, property, and services made by the organization, regardless of the recipient.
(6) Donated goods or services received by the organization, except when donated services utilized in the performance of a direct cost activity are material in amount.
(7) Bad debts, including losses arising from uncollectible accounts and other claims, related collection costs, and related legal costs.
(8) Compensation and special benefits to owners in excess of amounts reasonable for the services rendered.
(9) Entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs, such as the following:
(A) Tickets to shows or sports events.
(B) Meals.
(C) Lodging.
(D) Rentals.
(E) Transportation.
(F) Gratuities.
(10) Alcoholic beverages.
(11) Litigation expenses and fees if the expenses and fees relate to a lawsuit or other legal proceeding:
(A) that:
(i) alleges a violation of, or failure to comply with, a federal, state, local, or foreign statute or regulation by the organization (including its agents and employees); and
(ii) results in:
(AA) a conviction in a criminal proceeding;
(BB) a determination of liability in a civil or administrative proceeding involving an allegation of fraud or similar misconduct;
(CC) the imposition of a monetary penalty in any civil or administrative proceeding;
(DD) the termination of the contract with the department;
by reason of a violation or failure to comply with a law or regulation, or a disposition by consent or compromise if the action could have resulted in any of the proceeding dispositions listed in this item;
(B) initiated by the CPA against the department for:
(i) judicial review of any final rate, payment, child assessment, or child category of supervision determination made by the department;
(ii) interpretation or application of this rule, any other rule of the department, or any department policy;
(iii) alleged noncompliance by the department with any provision of Title IV-E or any other federal or state law, rule, or regulation; or
(iv) alleged breach of any contract between the department and the CPA;
(C) naming as a party defendant any other federal or state governmental agency; or
(D) initiated by, or on behalf of, a child, a child's parent or legal guardian, or a foster parent, against the CPA, alleging a claim for damages, breach of contract, violation of a constitutional or statutory right, or any other basis for liability of the CPA to the plaintiff or plaintiffs.
(12) Mortgage and loan principal payments.
(13) Contingency reserves or similar provisions made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening.
(14) Advertising and public relations except those which are solely for the recruitment of personnel, the procurement of goods or services necessary to support the program, and other specific purposes necessary to meet the requirements of the department.
(15) Housing of nonclients.
(16) Taxes from which exemptions are available to the residential treatment services provider directly, or which are available to the residential treatment services provider based on an exemption afforded by the federal government when the awarding agency makes available the necessary exemption certificates.
(17) Federal income taxes.
(18) Profit margin for any nonprofit entity.
(19) Nonstraight line depreciation except where clear evidence indicates that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in later portions of its useful life.

(d) The following costs and expenses will be considered by the department to be unallowable costs on the cost report and will not be considered in calculating the administrative payment:
(1) Salaries: Amounts exceeding the maximum allowable variation established by the department from the median salary for the job category that is determined by:
(A) the most recent available Child Welfare League of America Salary Study published by CWLA Press, that contains a survey of applicable job category salaries; or
(B) the applicable job category salaries paid by all CPAs in Indiana, as determined by reports compiled by, or available to, the department.
(2) Fringe benefits: Amounts exceeding the maximum allowable variation established by the department from the median fringe benefit rate (total fringe benefits as a percent of total wages) for all Indiana CPAs, as determined by reports compiled by, or available to, the department.
(3) Case management caseloads: Costs associated with staff in significant excess of licensing requirements as established by 465 IAC 2-2, as amended, or services standards adopted by the department.
(4) Case manager to supervisor ratios: Costs associated with supervisory staff in significant excess of licensing requirements as established by 465 IAC 2-2, as amended, or services standards adopted by the department.
(5) Indirect cost allocations: Any indirect cost allocations as a percentage of total costs in excess of the maximum percentage of total costs established by the department for allowable indirect costs.
(6) Total administrative costs: Any amount by which total administrative payment costs exceed a maximum percentage of total costs established by the department.

(Department of Child Services; 465 IAC 2-17-25)

465 IAC 2-17-26 Independent review of administrative payment rate setting methodology

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 26. An independent third party contractor will conduct an annual review of the department's administrative payment rate setting methodology.

(Department of Child Services; 465 IAC 2-17-26)

465 IAC 2-17-27 Placement and assessment of children

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 27. (a) The department is responsible for determining the child's assessed category of supervision and the final decision regarding the child's placement, subject to court review and supervision.

(b) The department requires an accurate assessment of each child to ensure that:
(1) each child's individual needs are met in the placement; and
(2) the child is in an appropriate placement.

(c) The department will complete an approved department assessment tool on every child in the care and custody of the department in accordance with the department's approved assessment tool policy. The result from the approved department assessment tool will be used to assist in determining the appropriate placement for the child.

(d) Each child will be reassessed using the approved department assessment tool at least every one hundred eighty (180) days, in the department's discretion following a critical case juncture, or when the department reasonably believes there is relevant, new, or changed information about the child's supervisory needs that were not adequately addressed in the approved department assessment tool or during discussions about the type of placement before the placement occurred. The rate and payment

may increase or decrease based on the child's needs at the time of the reassessment.

(Department of Child Services; 465 IAC 2-17-27)

465 IAC 2-17-28 Behavioral health

Authority: IC 31-25-2-18
Affected: IC 12-15-21; IC 31-25-2-7; IC 31-27-6

Sec. 28. (a) Counseling, therapy, skill building, behavioral health management, and other Medicaid eligible behavioral health services may be provided upon separate authorization from the department.

(b) For services approved by the department, each CPA shall bill Medicaid separately for these services for those children who are Medicaid eligible. If a child is not Medicaid eligible, each CPA shall bill the department separately for these services. The department shall pay for such services in an amount not greater than the applicable Medicaid rate in accordance with IC 12-15-21.

(Department of Child Services; 465 IAC 2-17-28)

465 IAC 2-17-29 Independent living services

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-3; IC 31-27-5

Sec. 29. Independent living services must be provided by the CPA in accordance with the department's Chafee Independent Living Program Services Standards posted on the department's website at www.in.gov/dcs/ChafeeIndependentLiving.htm.

(Department of Child Services; 465 IAC 2-17-29)

465 IAC 2-17-30 Health and medical services or treatment

Authority: IC 31-25-2-18
Affected: IC 12-15-21; IC 31-25-2-7; IC 31-27-6

Sec. 30. For health and medical services or treatment, each CPA shall bill Medicaid separately for those children who are Medicaid eligible. If a child is not Medicaid eligible, each CPA shall bill the department separately for these services. The department shall pay for such services in an amount not greater than the applicable Medicaid rate in accordance with IC 12-15-21.

(Department of Child Services; 465 IAC 2-17-30)

465 IAC 2-17-31 Review of the administrative payment

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 31. (a) A CPA may request a review of the administrative payment approved by the department as stated in a notice letter issued in accordance with section 23(g) of this rule. A CPA may request a review of the administrative payment when it believes that:
(1) errors have been made in the:
(A) cost report submitted to the department under section 23(d) of this rule;
(B) calculation of the administrative payment in accordance with section 23 of this rule; or
(C) the determination by the department of the reasonableness of any cost; or
(2) the determination of the administrative payment by the department has an adverse impact on child welfare in Indiana and no other CPA in the state of Indiana, or other licensed provider, can adequately

address the adverse impact to child welfare in the state of Indiana.

(b) A request for review of the administrative payment approved by the department must be submitted in writing to the department no later than thirty (30) days after the written notice of the approved rate has been sent by the department. Notice is effective upon mailing of the notice letter described in section 23(g) of this rule to the CPA's address. A request for review of the administrative payment submitted more than thirty (30) days after the notice of the approved payment was mailed will not be considered.

(c) The request for review of the administrative payment shall be submitted in the form and manner specified by the department and shall include, but not be limited to, the following items:
(1) Identification of the current administrative payment and approved new administrative payment, as applicable to a specific program or service offered by the CPA.
(2) An updated or revised cost report for the applicable program or service, including an itemized statement of administrative and indirect costs that the CPA considers allowable under the provisions of this rule.
(3) A clear, concise statement of the reasons for the requested change.
(4) A detailed statement of related information in support of the change.
The department will not accept or process an incomplete request for review of the administrative payment that does not include at least the items specified in this subsection.

(d) No request for review of the administrative payment will be acted upon if the CPA has a current license that is in the process of being revoked by the department.

(e) If a contract between the department and the CPA is in effect at the time a request for review of the administrative payment is submitted, the payment rate currently applicable to the CPA to which the request for review of the administrative payment relates will remain in effect pending the result of the review. The department will send notice of the outcome of the request for review of the administrative payment to the CPA within sixty (60) days of receiving the request for review of the administrative payment. The new administrative payment, as affirmed or revised by the department upon completion of the review, will be effective as of the date of the notice letter issued under section 23(g) of this rule. Any payments made by the department or received by the CPA after the effective date will be adjusted in accordance with the final approved payment amount.

(f) If there is no contract in effect at the time of the review conducted under this section, the department will not recommend or pay for new placements until the review conducted under this section is resolved. If the CPA does not accept the payment amount approved by the department following completion of the review conducted under this section, section 23(k) of this rule will apply to any current placements of children with the CPA to which the disputed payment amount applies.

(Department of Child Services; 465 IAC 2-17-31)

465 IAC 2-17-32 Initial review of the child's category of supervision

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 32. (a) A CPA may request a review of the child's category of supervision approved by the department as determined in accordance with section 27 of this rule.

(b) A request by a CPA for review of the child's category of supervision, as initially approved by the department, must be submitted in writing to the FCM who manages the child's case plan no later than thirty (30) days after the written notice of the child's category of supervision has been sent to the CPA by the department. Notice is effective upon mailing of the notice disclosing the child's category of supervision to the CPA's address. A request for review of the child's initially approved category of supervision submitted more than thirty (30) days after the notice of the child's category of supervision was mailed will not be considered.

(c) The request for review of the child's category of supervision shall be submitted in the form and manner specified by the department and shall include, but not be limited to, the following items:
(1) Identification of the child's current category of supervision.
(2) A clear, concise statement of the reasons for the requested change.
(3) A detailed statement of related information in support of the change.
The department will not accept or process an incomplete request for review of the child's category of supervision that does not include at least the items specified in this subsection.

(d) When a request for a review of the category of supervision that complies with subsection (c) is received, the FCM will hold a meeting with the CPA and foster parent to discuss the needs of the child. The FCMS must be in attendance at this meeting. Notice of the outcome of FCMS's review must be given, in writing, to the CPA within five (5) business days of the meeting.

(e) No request for review of the child's category of supervision will be acted upon if the CPA has a current license that is in the process of being revoked by the department.

(f) The payment for enhanced supervision needs, as determined by the child's category of supervision established under sections 21 and 27 of this rule, will remain in effect while the request for review of the child's category of supervision is pending the result of the review. The child's category of supervision, as affirmed or revised by the FCMS upon completion of the review, will be effective as of the date of the notice of the outcome of the review. Any payments made by the department after the effective date will be adjusted in accordance with the final approved category of supervision for the child.

(Department of Child Services; 465 IAC 2-17-32)

465 IAC 2-17-33 Review of the child's category of supervision after the initial assessment has been completed

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-6

Sec. 33. (a) A CPA may request a review of the child's category of supervision at a critical case juncture or when the CPA reasonably believes there is relevant, new, or changed information about the child's supervisory needs that were not adequately addressed in the approved department assessment tool or during discussions about the type of placement before the placement occurred. A CPA may request a review of the child's category of supervision when there are supervisory or behavioral concerns that are not adequately addressed by the approved department assessment tool. Any change in the child's category of supervision must coincide with a newly completed approved department assessment tool. Whether the child should be reassessed on the approved department assessment tool is a decision made at the discretion of the FCMS.

(b) The CPA may request review under this section not more than one (1) time in a six (6) month period that the child is in out-of-home placement.

(c) A request by a CPA for review of the child's category of supervision for reasons outlined in subsection (a) must be submitted timely and in writing to the FCM who manages the child's case.

(d) The request for review of the child's category of supervision shall be submitted in the form and manner specified by the department and shall include, but not be limited to, the following items:
(1) Identification of the child's current category of supervision.
(2) A clear, concise statement of the reasons for the requested change.
(3) A detailed statement of related information in support of the change.
The department will not accept or process an incomplete request for review of the child's category of supervision that does not include at least the items specified in this subsection.

(e) When a request for a review of the category of supervision that complies with subsection (d) is

received, the FCM will hold a meeting with the CPA and foster parent to discuss the needs of the child. The FCMS must be in attendance at this meeting. Notice of the outcome of FCMS's review must be given, in writing, to the CPA within five (5) business days of the meeting.

(f) No request for review of the child's category of supervision will be acted upon if the CPA has a current license that is in the process of being revoked by the department.

(g) The payment for enhanced supervision needs, as determined by the child's category of supervision established under sections 21 and 27 of this rule or section 32 of this rule will remain in effect while the request for review of the child's category of supervision is pending the result of the review. The child's category of supervision, as affirmed or revised by the FCMS upon completion of the review, will be effective as of the date of the notice of the outcome of the review. Any payments made by the department after the effective date will be adjusted in accordance with the final approved category of supervision for the child.

(Department of Child Services; 465 IAC 2-17-33)

Notice of Public Hearing

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