

Economic Impact Statement

LSA Document #10-463

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**Description of Rule**

The Department of Child Services ("DCS" or "department") must license all foster family homes (provider) required to be licensed in the state of Indiana. Certain relative providers not required to be licensed may voluntarily become licensed providers. Every provider in Indiana must be licensed by the department in accordance with state law and the department's rules in order for the department to recommend the placement of a child with that provider and pay for the costs of such placement. This rule establishes the process by which the department will determine the cost-based rates that will be paid to the provider for placements, and ensure an open and transparent rate setting process.

Economic Impact on Small Businesses

The current provider rates paid by DCS to foster homes managed by the department may be below the reasonable cost of care for some children placed with those providers and above the reasonable cost of care for other children in out-of-home placements. This rate setting rule will ensure that all future foster home rates cover the reasonable cost of care for children placed by DCS in those homes, attributable to the cost items that are funded in part through Title IV-E of the federal Social Security Act (IV-E cost of care) for children placed in out-of-home care who are eligible for Title IV-E assistance, neither below nor in excess of those reasonable costs. As a result, it is possible that foster care per diems or other payments to DCS managed foster homes or for children placed in those homes could either go up or down, depending upon the research done by an independent effort in assessing the reasonable IV-E cost of care.

Estimated Number of Small Businesses Affected

[IC 4-22-2.1-4](#), incorporating by reference [IC 5-28-2-6](#), defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

The term "business entity" is not defined in the statute.

As of July 1, 2010, there were 2,645 foster family homes licensed by DCS through its local offices in Indiana that were available for placement of children or youth. DCS believes that very few, if any, licensed foster family homes would be considered to be a "small business" as currently defined in [IC 4-22-2.1-4](#). Few of those homes have any employees. Even if a home does have an employee, it should not be considered a "business entity" within the meaning of the statute. Further, even if a foster family home could be considered a business entity, this rule does not impose any requirements or costs on the home. It merely provides a process for determining how DCS will pay the licensed homes for children it places with them for foster care and determining how the amount of those payments will be calculated.

Estimate of the Average Annual Reporting, Record Keeping, and Other Administrative Costs That Small Businesses Will Incur to Comply with the Proposed Rule

The rule does not change current procedures for foster homes to submit claims for monthly payments or impose any additional requirements that would increase costs of reporting, record keeping, or other administrative functions.

Estimate of the Total Annual Economic Impact That Compliance with the Proposed Rule Will Have on Small Businesses Subject to the Rule

The Department of Child Services believes that very few, if any, licensed foster family homes would be considered to be a "small business" as currently defined in [IC 4-22-2.1-4](#). The rule does not affect licensing standards requiring compliance that would have an economic impact on the licensees.

Statement Justifying Any Requirement or Cost That Is Imposed on Small Businesses by the Rule; and Not Expressly Required by the Statute Authorizing the Agency to Adopt the Rule; or Any Other State or Federal Law

For those children eligible for federal IV-E funding, it is a federal requirement that the state of Indiana cover the reasonable IV-E cost of care for out-of-home placements. Hence, the department must have a rate setting process that ensures that reasonable costs of out-of-home placements are covered by provider rates.

On January 1, 2009, the state of Indiana assumed the fiscal responsibility for child welfare expenditures,

including those for DCS managed foster home placements that were previously funded by county property tax levies. Under the county-based system prior to establishment of DCS in 2005, inconsistencies among counties in their approaches to rate setting produced an extremely wide variation in rates across the state for the same or similar foster care placements. In 2006, the DCS Director instituted a uniform statewide rate for regular foster care of children not requiring therapeutic or special needs foster care placements, who were placed in licensed homes managed by DCS county offices. That rate, currently in effect, was based on a study of the county-based rates in effect in 2005, rather than the IV-E cost of care. This rate setting rule will ensure that all future foster care per diem rates and payments will cover the reasonable IV-E cost of care, neither below nor in excess of that cost.

Linking rates with costs through a cost-based rate setting process will ensure that necessary and appropriate services are being provided by our providers and that they are fairly compensated for the reasonable costs of providing those services. In effect, such an approach will protect providers, the department, and the children it serves by ensuring that payment rates provide the appropriate funding to providers to cover the necessary and prudent costs of caring for the children that the department serves.

Regulatory Flexibility Analysis

The department does not propose an alternative regulatory method since this rule does not impose any regulatory requirements. Moreover, as stated above, foster family homes should not be considered to be a "small business" as currently defined in [IC 4-22-2.1-4](#).

Conclusion

The department anticipates no change in provider administrative and operational costs as a result of this rule.

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