TITLE 465 DEPARTMENT OF CHILD SERVICES

Proposed Rule
LSA Document #10-463

DIGEST

Adds 465 IAC 2-18, concerning payments for children placed in foster family homes licensed by the department under IC 31-27-4 or comparable law in the state where the home is located, to establish the mechanisms the department will use for setting maintenance payments and other payments to foster parents in licensed homes supervised through the department. Effective 30 days after filing with the Publisher.

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

465 IAC 2-18

SECTION 1. 465 IAC 2-18 IS ADDED TO READ AS FOLLOWS:

Rule 18. Rate Setting for Department-Managed Foster Homes

465 IAC 2-18-1 Scope and purpose

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 1. (a) Every foster home 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 foster home or pay for the costs of such placement.

(b) This rule establishes the procedures the department will use for determining and making maintenance payments and other payments to foster parents of children placed by the department in licensed foster homes.

(Department of Child Services; 465 IAC 2-18-1)

465 IAC 2-18-2 Applicability of definitions

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 2. The definitions in sections 3 through 13 of this rule apply throughout this rule.

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

465 IAC 2-18-3 "Approved department assessment tool" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 3. "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 2-18-3)

465 IAC 2-18-4 "Critical case juncture" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 4. "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 2-18-4)

465 IAC 2-18-5 "Department" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-1-1; IC 31-25-2-7; IC 31-27-4

Sec. 5. "Department" means the Indiana department of child services established by IC 31-25-1-1.

(Department of Child Services; 465 IAC 2-18-5)

465 IAC 2-18-6 "Enhanced supervision" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 6. "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 2-18-6)

465 IAC 2-18-7 "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 31-27-4

Sec. 7. "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 2-18-7)

465 IAC 2-18-8 "Family case manager supervisor" or "FCMS" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 8. "Family case manager supervisor" or "FCMS" means an employee of the department who supervises an FCM.

(Department of Child Services; 465 IAC 2-18-8)

465 IAC 2-18-9 "Foster home" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 9. "Foster home" means a home that is licensed under IC 31-27-4 or under a comparable law in the state in which the home is located.

(Department of Child Services; 465 IAC 2-18-9)

465 IAC 2-18-10 "Maintenance payment" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 10. "Maintenance payment" means payments made by the department to the foster parent to cover the reasonable cost of, and the reasonable cost of providing, the following items on behalf of a child placed by the department:
(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 2-18-10)

465 IAC 2-18-11 "Public hearing" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 11. "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 as set by the mechanisms in this rule.

(Department of Child Services; 465 IAC 2-18-11)

465 IAC 2-18-12 "Title IV-E" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 12. "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 2-18-12)

465 IAC 2-18-13 "Travel expenses" defined

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 13. "Travel expenses" means reasonable expenses incurred by a foster family 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 2-18-13)

465 IAC 2-18-14 Annual public comment period; public hearing

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 14. (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 foster parent 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 2-18-14)

465 IAC 2-18-15 Payments to foster parents

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 15. (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 may receive an additional amount of properly claimed travel expenses, as defined in section 13 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 the Foster Family Home 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 foster home or group of foster homes, that may include payment amounts or procedures during a specified time period that differ from the amounts or procedures determined under this section.

(Department of Child Services; 465 IAC 2-18-15)

465 IAC 2-18-16 Independent review of the maintenance payment

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 16. (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 2-18-16)

465 IAC 2-18-17 Placement and assessment of children

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 17. (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 2-18-17)

465 IAC 2-18-18 Initial review of the child's category of supervision

Authority: IC 31-25-2-18
Affected: IC 31-25-2-7; IC 31-27-4

Sec. 18. (a) A foster parent may request a review of the child's category of supervision approved by the department as determined in accordance with sections 15 and 17 of this rule.

(b) A request by a foster parent 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 foster parent by the department. Notice is effective upon mailing of the notice disclosing the child's category of supervision to the foster parent'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 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 foster parent 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 foster parent has a current license that is in the process of being revoked by the department.

(f) The payment for enhanced supervision based on the enhanced supervision rate applicable to the child's category of supervision, determined in accordance with sections 15 and 17 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 to the foster parent 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 2-18-18)

465 IAC 2-18-19 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 31-27-4

Sec. 19. (a) A foster parent may request a review of the child's category of supervision at a critical case juncture or when the foster parent 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 foster parent 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 foster parent 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 foster parent 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 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 foster parent 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 foster parent has a current license that is in the process of being revoked by the department.

(g) The payment for enhanced supervision as determined under sections 15 and 17 of this rule or section 18 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 to the foster parent 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 2-18-19)

Notice of Public Hearing

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