



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 19, 2023

TIME: 10:32 AM

WSR 23-19-078

Agency: Department of Children, Youth, and Families

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 23-12-022 ; or

Expedited Rule Making--Proposed notice was filed as WSR ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Child Welfare Placement and Foster Care Rate Assessment (FCRA) Chapter 110-50 WACs

DCYF will be revising child welfare placement WACs in chapter 110-50 WAC and other related rules regarding child placing agencies (CPAs) expectations and reimbursement as they relate to the revised foster care maintenance levels.

DCYF will also be making changes to the FCRA WACs in chapter 110-50 WAC and other related rules. The WAC revisions will allow DCYF to revise the foster care maintenance levels and rates and the standardized process that will be used to determine the level and rate paid to licensed foster parents. The standardized process will determine the child's or youth's level and rate based on their physical, mental health, and behavioral needs. The WACs will also be retitled, reorganized, and redundancy removed.

DCYF withdrew the previous WSR 23-18-039 that was filed on August 30, 2023, because 10 WACs that were being repealed were not listed in the previous CR-102 filing text in the repealer. The withdrawal memo was filed under WSR 23-19-067.

The following WACs in the Child Welfare Chapter will be revised:

Placement

110-50-0230 Child placing agency (CPA) expectations.

110-50-0240 CPA reimbursement.

110-50-0250 CPA contractual requirements.

Foster Care Rate Assessment

110-50-0400 Legal basis for the foster care program.

110-50-0410 Purpose.

110-50-0420 Definitions for Foster Care Rate Assessment (FCRA).

110-50-0430 Financial requirements of the department.

110-50-0440 Foster care maintenance payment and standardized assessment tool.

110-50-0450 Using the standardized assessment tool to determining foster care reimbursement levels.

110-50-0460 Reimbursement to foster families that reside in or move to another state.

110-50-0470 Payments to relative caregivers and suitable persons.

110-50-0480 Starting foster care maintenance payments.

110-50-0490 Terminating foster care maintenance payments.

110-50-0500 Foster parents' level notification.

110-50-0510 Requesting a department review of the foster care rate level.

110-50-0520 Department review of the foster care rate level.

110-50-0530 Foster parents' notification of department review.

110-50-0540 Foster parents' right to appeal.

110-50-0550 Scope of administrative hearings.

The following WACs in the Child Welfare Chapter will be repealed:

Placement

WAC 110-50-0260 What steps must the department take when a child whose case management responsibility remains with the department is placed in a home certified by a CPA?

WAC 110-50-0270 What activities must a child placing agency provide in order to receive payment from the department?
Foster Care Rate Assessment

WAC 110-50-0560 What does the department consider in reviewing the request?

WAC 110-50-0570 How does the foster parent learn about the department's decision on review?

WAC 110-50-0580 To whom does the department make payment for foster care?

WAC 110-50-0590 How does the foster parent appeal the department's decision on review?

WAC 110-50-0600 What law and rules govern the administrative law judge?

WAC 110-50-0610 What issues may be decided by the administrative law judge?

WAC 110-50-0620 What are the department's expectations for foster care providers to whom the department makes reimbursement for services?

WAC 110-50-0630 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?

WAC 110-50-0640 What is the effective date for payment of foster care?

WAC 110-50-0650 What is the beginning date for payment of foster care?

WAC 110-50-0660 What is the effective date for termination of foster care payments?

WAC 110-50-0670 What are the department's general standards for family foster care reimbursement?

WAC 110-50-0680 When may the department authorize a clothing allowance for a child in out-of-home care?

WAC 110-50-0690 May the department consider foster care payments to the foster family in determining eligibility for public assistance?

WAC 110-50-0700 What are the department's standards for making foster care payment to a relative providing care to the child served by department?

WAC 110-50-0710 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?

WAC 110-50-0720 What payment procedures must the department follow for children placed across state borders?

WAC 110-50-0730 What limitations exist on administrative hearings regarding foster care payments?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 24, 2023		Telephonic	Make oral comments by calling 360-972-5385

Date of intended adoption: October 25, 2023_ (Note: This is **NOT** the **effective** date)

<p>Submit written comments to: Name: DCYF Rules Coordinator Address: Email: dcyf.rulescoordinator@dcyf.wa.gov Fax: Other: https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online By (date) October 24, 2023</p>	<p>Assistance for persons with disabilities: Contact DCYF Rules Coordinator Phone: 360) 902-7956 Fax: TTY: Email: dcyf.rulescoordinator@dcyf.wa.gov Other: https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online By (date) <u>October 19, 2023</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: These WAC revisions will allow DCYF to pay additional levels of foster care maintenance payments based on the specific needs of the child or youth. The changes to the standardized assessment tool will be centered on the child's or youth's needs, not on the home they are placed in.

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: RCW [43.216.065](#) and RCW [74.13.031](#)

Statute being implemented: RCW [43.216.065](#) and RCW [74.13.031](#)

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Children, Youth, and Families

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Michael Campbell	Ellensburg, WA	509-654-4940
Implementation:	DCYF	Statewide	
Enforcement:	DCYF	Statewide	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|--|---|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 19, 2023

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:

WAC 110-50-0230 ((Under what conditions and how much will the department reimburse to child placing agencies licensed or certified under chapter 74.15 RCW to provide care to children?)) Child placing agency (CPA) expectations. ((1) The CPA representative must discuss with the department social worker for the child the roles of the agency and the department in the placement, permanency planning, and supervision of the child. The agency representative and the department social worker must also discuss services the department or the agency will provide to the child's parents and extended family.

(2) The CPA must maintain the documentation required by contract to demonstrate all services provided to children in care and for whom the department makes payment.

(3) The department will pay a monthly administrative fee to a CPA if the agency, in addition to supervision of the child, provides services to the child or the child's family.

(4) If the department wants to borrow a CPA-certified home for placement of a child, the department pays the agency for the use of the CPA's foster home with approval of the agency. The department pays the borrowed home fee described in the contract between the department and the agency.

(5) The department will pay a set monthly fee to a child placing agency for a borrowed home if the agency provides supervision services only to the child and no services to the child's family. The department pays this fee only to enable the agency to maintain the foster care license and to provide any related licensing training and support services. This activity includes maintenance of a foster care license for foster parent dependency guardianships in the agency-certified home. The following conditions also apply:

(a) The department may pay for a maximum of two borrowed beds in one foster home.

(b) If one CPA borrows a bed from another CPA, the department will pay only one service fee to one agency for the child. The two private agencies and the department will mutually identify and agree upon the agency the department will pay.

(6) The department may enter into contracts with CPAs to provide intensive treatment and supervision services to children with behavioral, emotional, medical, or developmental disabilities. The department will assess the needs of the child, assign a service level, and pay the rate provided in the contract.

(7) Before making payment for care of a child, the department must determine initial and ongoing eligibility for financial support, approve the placement, and approve the case plan for care of the child and services to the family. The department will document this approval through written agreements, documentary reports, and supervisory conferences with the CPA.)) The department requires CPAs to:

(1) Be licensed or certified under chapter 74.15 RCW.

(2) Have a contract with the department to provide child or youth placement and related services. The department will only place and pay for services to an agency that the department has a contract with.

(3) Document the services provided as required in their contract.

(4) Maintain the licenses of their foster family homes, so placements of children or youth may occur.

(5) Provide support services to the foster parents.

(6) Be financially responsible for placement costs for a child or youth that the CPA brought from another country for adoption if the adoption is not finalized, disrupts prior to finalization, or until they reach age 18.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0240 ~~((What steps may the department take if a child placing agency does not meet the requirements of this chapter?))~~ **CPA reimbursement.** ~~((1) In addition to any sanctions included in the department's contract with the CPA, the DCFS social worker must stop payment of the agency administrative fees in accordance with department procedures if the department does not receive the child's report in the time frame stipulated in WAC 388-25-0425.~~

~~(2) The DCFS social worker must inform the regional licensor and contracts coordinator when there are continuing problems with reports.)~~ For licensed or certified CPAs under chapter 74.15 RCW:

(1) The department:

(a) Must:

(i) Determine initial and ongoing eligibility for financial support;

(ii) Approve placements before making payments;

(iii) Pay a monthly service fee if the agency provides services that are in addition to supervision of children or youth or their families; and

(iv) Discuss the following:

(A) Roles of the department;

(B) Placement support to foster parents;

(C) Caregiver support plan;

(D) Supervision of children or youth; and

(E) Services the department will provide to children or youth;

(b) May enter into contracts with them to provide intensive treatment and supervision services to children or youth with physical, mental health, or behavioral needs. This includes:

(i) Assessing the needs of each child or youth;

(ii) Assigning a service level for each child or youth; and

(iii) Paying the rate provided in the contract.

(2) CPAs must:

(a) Sign and return written service agreements to the department for each child or youth accepted;

(b) Document and maintain documentation required in their contract to demonstrate case management and support services provided to children or youth for whom the department makes payment; and

(c) Provide quarterly progress reports to DCYF caseworkers for each child or youth whose placement or services the department pays for.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0250 (~~(What are the department's expectations for child placing agencies (CPA) to which the department makes reimbursement for services or administrative costs?)~~) CPA contractual requirements. ((~~(1) The department requires that the child placing agency (CPA) be licensed or certified under chapter 74.15 RCW and have a contract with the department for the provision of child placement and related services.~~

~~(2) The CPA must document the services provided in a format described by the department in the contract.~~

~~(3) When the department agrees to place a child with a CPA, the licensed or certified agency must maintain the license of the foster family home and provide support services to the foster parents. The department will only place and pay for services with an agency with which the department has a contract. The agency must provide payment to the foster family in accordance with this chapter.~~

~~(4) The department requires that private agencies bringing children from other countries for adoption remain financially responsible for the child's placement costs if the adoption is not finalized, disrupts prior to finalization, or until the child reaches age eight-
een.)~~) The department must monitor CPAs' compliance with their contract. If a CPA is found out of compliance with their contract, DCYF:

(1) Contracts managers must follow the sanctions included in the contract with the department and the CPA.

(2) Caseworkers must:

(a) Notify the fiduciary to stop agency service fee payments if the department does not receive the children's or youth's reports in the time frames outlined in the contract; and

(b) Inform their regional CPA lead when there are ongoing problems with reports or the CPA.

FOSTER CARE RATE ASSESSMENT LEGAL BASIS, PURPOSE, AND DEFINITIONS

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0400 (~~(What kinds of financial support are available to licensed foster care providers?)~~) Legal basis for the foster care program. ((~~In addition to medical assistance and other services that may be provided to meet the specific needs of a foster child, the department provides licensed foster parents with a monthly foster care maintenance payment. This payment is for the benefit of the child.~~) The legal basis for the foster care program is RCW 74.13.031, which authorizes the department to provide foster care placement services.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0410 (~~(What is the purpose of the foster care maintenance payment?)~~) **Purpose.** ((The purpose of the foster care maintenance payment is to assist licensed foster parents in meeting the needs of their foster child. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments (levels 2, 3 and 4) which are paid to foster parents who care for children with varying degrees of physical, mental, behavioral or emotional conditions that require increased effort, care or supervision that are above the needs of a typically developing child.)) The monthly foster care maintenance payment was established to assist licensed or certified foster parents, which includes licensed relatives and suitable persons, in meeting the needs of the children or youth placed in their care. The payment is for the benefit of the children or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0420 (~~(What is the legal basis for the foster care program?)~~) **Definitions for foster care rate assessment (FCRA).** ((RCW 74.13.020 authorizes the department to provide foster care placement services.)) The following definitions apply to foster care rate assessments (FCRA):

"Behavior rehabilitation services" or "BRS" means a temporary wrap around support and treatment program for youth with extreme, high level service needs, used to safely stabilize them and assist them in achieving a permanent plan or less intensive service.

"Child placing agency" or "CPA" means an agency licensed to place children or youth for foster care or adoption.

"Department" or "DCYF" means the department of children, youth, and families.

"Foster care" means the placement of children or youth by DCYF or licensed child placing agencies in homes or facilities licensed or certified pursuant to chapter 74.15 RCW or in homes or facilities that are not required to be licensed pursuant to chapter 74.15 RCW.

"Foster home" or "foster family home" means individuals licensed to regularly provide a 24-hour care in their home to children or youth.

"Licensed health care provider" means a medical doctor (MD), doctor of osteopathy (DO), doctor of naturopathy (ND), physician's assistant (PA), or an advanced registered nurse practitioner (ARNP).

"Licensing division" or "LD" means the division of the department of children, youth, and families that licenses and monitors foster homes, child placing agencies, and licensed group care facilities under the authority of chapter 74.15 RCW.

"Relatives" means the same as defined in RCW 13.36.020(5), described in RCW 74.15.020(2), or caregivers of Indian children or youth who are defined by tribal code or custom as relatives or extended family.

"Suitable persons" means nonrelatives with whom the child or youth, or the child's or youth's family, has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child or youth, and with whom they have been placed pursuant to RCW 13.34.130.

REIMBURSEMENT

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0430 ((What definitions apply to the foster care program?)) Financial requirements of the department. ((The following definitions are important:~~

~~"Alcohol affected infant" means a child age birth through twelve months who was exposed to alcohol in utero and may demonstrate physical, behavioral, or cognitive signs that may be attributed to alcohol exposure.~~

~~"Behavior rehabilitation services" (BRS) is a comprehensive program of positive behavioral support and environmental structure in a supervised group or family living setting. Resources are designed to modify a child's behavior or to appropriately care for a child's intensive medical condition. Services are tailored to each client's needs and offered in the least restrictive setting possible.~~

~~"Child placing agency" means a private licensed or certified agency that places a child or children for temporary care, continued care, or for adoption.~~

~~"Children's administration" (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, child protective, child care licensing, and other services to children and their families.~~

~~"Crisis residential center" (CRC) means a secure or semi-secure facility established under chapter 74.13 RCW.~~

~~"Department" means the department of social and health services (DSHS).~~

~~"Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.~~

~~"Division of children and family services" (DCFS) is the division of children's administration that provides child welfare, child protective, family reconciliation, and support services to children in need of protection and their families.~~

~~"Division of licensed resources" (DLR) is the division of children's administration responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.~~

~~"Drug affected infant" means a child age birth through twelve months who was exposed to drugs or substances in utero and demonstrates physical, behavioral, or cognitive signs that can be attributed to exposure to drugs or substances.~~

~~"Early and periodic screening, diagnosis and treatment" (EPSDT), also known as "healthy kids," is a federal program for preventive health care for children and teens served by medicaid. The physical/well child examination helps find health problems early and enables the child to receive treatment for concerns identified in the examination.~~

~~"Foster care" means twenty-four-hour per day temporary substitute care for the child placed away from the child's parents or guardians and for whom the department or a licensed or certified child placing agency has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, licensed group homes, emergency shelters, staffed residential facilities, and preadoptive homes, regardless of whether the department licenses the home or facility and/or makes payments for care of the child.~~

~~"Foster care services" for the department include:~~

- ~~(1) The determination of needs of the child;~~
- ~~(2) The determination of need for foster care;~~
- ~~(3) The placement of the child in the type of foster care setting that best meets the child's needs;~~
- ~~(4) The referral of a child to a private child placement agency or institution to meet the child's specific needs;~~
- ~~(5) Medical services according to the rules of the department's medical program;~~
- ~~(6) Reimbursement for the care of a child in a licensed family foster home;~~
- ~~(7) The purchase of care from a licensed private child placing agency, behavioral rehabilitation services provider, or maternity home;~~
- ~~(8) Supervision of the foster care placement by direct supervision through departmental social work services; or indirect supervision through evaluation of periodic reports from private child placing agencies, rehabilitation services providers, or maternity homes with which the department has contractual arrangements.~~

~~"Foster home or foster family home" means person(s) regularly providing care on a twenty-four-hour basis to one or more children in the person's home.~~

~~"Group care" means a twenty-four-hour facility licensed or certified under chapter 388-148 WAC for more than six children. The facility provides the basic needs for food, shelter, and supervision. The facility also provides therapeutic services required for the successful reunification of children with the children's family resource or the achievement of an alternate permanent living arrangement.~~

~~"Independent living services" means the program services and activities established and implemented by the department to assist youth sixteen years or older in preparing to live on their own after leaving foster care.~~

~~"Overpayment" means any money paid by the department for services or goods not rendered, delivered, or authorized or where the department paid too much for services or goods or services rendered, delivered, or authorized.~~

~~"Regional support network" is an administrative body which oversees the funding for provision of public mental health services.~~

~~"Relative" means a person who is related as defined in RCW 74.15.020 (2)(a).~~

~~"Responsible parent" means a birth parent, adoptive parent, or stepparent of a dependent child or a person who has signed an affidavit acknowledging paternity that has been filed with the state office of vital statistics.~~

~~"Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, lives outdoors or in another unsafe location not intended for use as housing.~~

~~"Staffed residential home" means a licensed home providing twenty-four hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers.~~

~~"Shelter care" means the legal status of a child at entry in foster care prior to a disposition hearing before the court.~~

~~"Vendor" means an individual or corporation that provides goods or services to or for clients of the department and that controls operational decisions.) The department must:~~

- ~~(1) Pay for placements and service plans they have approved.~~
- ~~(2) Provide final approval for determining initial and ongoing eligibility for financial support.~~
- ~~(3) Maintain oversight of placements and payments.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0440 ((What method does the department use to determine what foster care rate will be paid for a foster child?)) Foster care maintenance payment and standardized assessment tool. ((The department uses a standardized assessment tool, the foster care rate assessment, to determine the foster care rate that will be paid on behalf of the child. The tool assesses the needs of the child and the foster parent's ability and time required to meet those needs.)) (1) All children or youth placed in foster care will receive the basic foster care maintenance payment for their age category to help cover the cost of food, clothing, shelter, and personal incidentals.~~

~~(a) The department must pay foster care maintenance payments to individuals:~~

~~(i) That are licensed or certified foster parents when children or youth are placed in their home;~~

~~(ii) Identified by the tribe when they:~~

~~(A) Take placement of children or youth; and~~

~~(B) Meet the licensing requirements of their tribe.~~

~~(b) Residing out of Washington state, when:~~

~~(i) They take placement of a Washington state child or youth;~~

~~(ii) They meet the licensing requirements of the state they reside in, per WAC 110-50-0460; and~~

~~(iii) Approval is received from both the sending and receiving state offices, per WAC 110-50-0100.~~

~~(2) The amount of the monthly foster care maintenance payment is determined using a standardized assessment tool that assesses children's and youth's needs in the following areas:~~

- (a) Physical health;
- (b) Mental health; and
- (c) Behavioral needs.
- (3) The standardized assessment tool must be completed to determine the rate of the foster care maintenance payment:
 - (a) Within 40 calendar days of the children's or youth's placement being documented in a licensed or certified foster home or relative or suitable persons home;
 - (b) At least every six months after the first assessment; and
 - (c) When there is a significant change in circumstances for children or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0450 (~~(What are the essential features of the foster care rate assessment system?)~~) **Using the standardized assessment tool to determine foster care reimbursement levels.** (~~(The foster care rate assessment system includes the following essential features:~~

~~(1) Foster care maintenance payments are based on foster parent time and the nature of activities needed to meet the needs of the child.~~

~~(2) A standardized assessment tool is used for all children.~~

~~(3) The assessment tool is completed jointly by foster parent and social worker or a rate assessment specialist.~~

~~(4) Assessments are updated periodically, in accordance with WAC 388-25-0032.~~

~~(5) The assessment process is automated.))~~ The basic maintenance payment level 1 is paid to foster parents depending upon the ages of the children and youth. In addition, there are six levels of supplemental payments paid to foster parents who care for children or youth with varying degrees of physical, mental health, or behavioral needs that require increased effort, care, or supervision. The standardized assessment tool must be used to determine the appropriate level for payment based on available information regarding children's or youth's needs, regardless of the foster home they are placed in. Children or youth will be assessed and paid at the highest level they qualify for. Children or youth assessed at:

(1) **Level 1:** Receive the basic foster care maintenance rate. The payment is based on the child's or youth's needs, who are developing comparably to children or youth in the same age range. The payments are based on three age categories:

(a) Birth to five years old;

(b) Six to 11 years old; or

(c) Twelve to 20 years old.

(2) **Level 2:** Require more support from foster parents due to the youth being 12 years of age or older. The payment is based on the youth's needs, who are developing comparably to youth in the same age range.

(3) **Level 3:** Are diagnosed by a licensed health care provider with at least one chronic medical condition that requires more support from foster parents due to the severity of their needs. Children and youth in this level only have chronic medical conditions and do not

have other conditions that would put them in a different level of care.

(4) Level 4: Are diagnosed by a licensed health care provider with a developmental disability that requires more support from foster parents due to the severity of their behaviors and needs. Children and youth in this level only have a diagnosed developmental disability and do not have other conditions that would put them in a different level of care.

(5) Level 5: Are diagnosed by a licensed health care provider with a developmental disability and have at least one chronic health condition. Children or youth in this level will not have any other conditions that would put them in a different level of care.

(6) Level 6: Have a current mental health diagnosis by a licensed health care provider or current prescription medication to assist with their mental health diagnosis.

(7) Level 7: Have complex mental health needs and need more support to help stabilize and keep the child or youth safe.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0460 (~~(How does the foster care rate assessment work?)~~) **Reimbursement to foster families that reside in or move to another state.** ((The foster care rate assessment is a two-step process that includes the participation of the child's foster parent.

(1) Step one: The child's social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to jointly complete the standardized assessment form.

(2) Step two: After step one has been completed, the child's social worker or designated rate assessment specialist enters the information from the assessment into the computer and, based on the responses to the questions in the standardized assessment, the rate assessment software program automatically calculates the foster care rate that will be paid on behalf of the child.)) Department caseworkers must:

(1) Arrange with other states or local social service agencies to license and supervise the homes and placements when foster families reside in or move to another state, per chapter 26.34 RCW.

(2) Obtain the reimbursement rates from receiving states and DCYF will reimburse at their rate, unless the Washington state rate is approved.

(3) Authorize payments to the out-of-state foster homes after a copy of their foster family home license is received.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0470 (~~(When may the department or a child placing agency authorize foster care placement?)~~) **Payments to relative caregivers and suitable persons.** ((The department or a child placing

agency may place a child in foster care only under the following circumstances:

(1) The child has been placed in temporary residential care after having been taken into custody under chapter 13.32A RCW, Family Reconciliation Act, to alleviate personal or family situations that present an imminent threat to the health or stability of the child or family.

(2) The child, the child's parent(s), or the department has filed a petition requesting out-of-home placement for the child pursuant to RCW 13.32A.120 or 13.32A.140:

(a) Placement has been approved after a fact finding hearing under RCW 13.32A.170; or

(b) A child has been admitted directly to placement in a crisis residential center (CRC), and the parents have been notified of the child's whereabouts, physical and emotional condition, and the circumstances surrounding the child's placement.

(3) A child has been placed in shelter care under one of the following circumstances:

(a) The child has been taken into custody by law enforcement or through a hospital administrative hold and placed in shelter care; or

(b) A petition has been filed with the juvenile court alleging that the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody; and the juvenile court enters an order placing the child in shelter care (see RCW 13.34.050 and 13.34.060).

(4) A juvenile court has made a determination of dependency for a child and has issued a disposition order under RCW 13.34.130 that removes the child from the child's home.

(5) A juvenile court has terminated the parent and child relationship as provided in chapter 13.34 RCW and has placed the custody of the child with the department or with a licensed or certified child placing agency.

(6) The child's parent(s) or persons legally responsible to sign a consent for voluntary placement that demonstrates agreement with an out-of-home placement as described in RCW 74.13.031.) Relative caregivers and suitable persons:

(1) Licensed or certified as family foster homes under chapter 74.15 RCW will receive foster care maintenance payments on behalf of children or youth. If the family is eligible for a nonneedy grant for the same child or youth through the department of social and health services (DSHS) community services office (CSO), they must either receive foster care maintenance payments or nonneedy grants, but not both.

(2) Not licensed or certified for foster care, may apply for the nonneedy grant through the DSHS CSO.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0480 ((What factors are considered in the foster care rate assessment?)) Starting foster care maintenance payments. ((The assessment tool considers the average number of hours, beyond those expected for a typically developing child of the same age, the foster parent spends in:

- ~~(1) Caring and/or advocating for the child to meet the child's physical and behavioral needs;~~
- ~~(2) Participating in parenting activities related to the child's physical or emotional/behavioral therapeutic plan;~~
- ~~(3) Engaging in parenting activities related to supervising and supporting the educational needs of the child;~~
- ~~(4) Participating in parenting activities related to scheduling, arranging, and supervising activities, such as medical and dental appointments for the child, visits between the child and his or her parents and/or siblings, or other school or recreational activities;~~
- ~~(5) Repairing, cleaning or replacing household items, over and above normal repair, due to the child's chronic physical problems or destructive behavior; and~~
- ~~(6) Preparing the child to transition back to the child's parents or to an adoptive or other foster care placement.)~~ The department pays foster care maintenance payments for:
 - (1) Children and youth beginning on the date the department places them in a licensed or certified foster home.
 - (2) Each night children or youth reside in foster homes.

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

- WAC 110-50-0490** ~~((How often do the foster parent and caseworker meet to complete the rate assessment?))~~ **Terminating foster care maintenance payments.** ((The caseworker or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:
- ~~(1) Within thirty days of the child's placement in the foster parent's home;~~
 - ~~(2) At least every six months after the first assessment, except under limited circumstances that serve the best interests of the child; and~~
 - ~~(3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.)~~ The department must terminate foster care maintenance payments:
 - (1) On the day before the child or youth leaves the foster home or facility. The department does not pay for the last day they are in a foster home or facility.
 - (2) For children or youth in foster care, effective the date they:
 - (a) No longer reside in or need foster care;
 - (b) Reach the age of 18, unless they meet the criteria in RCW 13.34.267 and are participating in the extended foster care (EFC) program; or
 - (c) Are no longer eligible for EFC and the:
 - (i) Dependency action is dismissed; or
 - (ii) Voluntary placement agreement (VPA) has expired.
 - (3) For children or youth in a behavior rehabilitation services (BRS) program, effective the day they start BRS.

WAC 110-50-0500 ((What are the reimbursement levels?)) Foster parents' level notification. ((The amount of foster care maintenance payments may change slightly from year to year. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments that are paid to foster parents who care for children with varying degrees of physical, mental, behavioral, emotional and/or intellectual conditions that require increased effort, care or supervision. The levels of payments are as follows:

(1) ~~Level 1:~~ Children assessed at this level receive the basic foster care maintenance rate. The payment is based on the time typically spent by a foster parent to meet the needs of a child, who is developing comparably to children in the same age range. The payments are based on three age categories: birth to five years old, six to eleven years old, and twelve to eighteen years old.

(2) ~~Level 2:~~ Children assessed at this level require the foster parent's increased attention, time and supervision, beyond that required to meet the child's basic or routine needs, to address specific physical, mental, behavioral, emotional and/or intellectual challenges.

(3) ~~Levels 3 and 4:~~ Children assessed at these levels have the highest needs for attention and care. These children require significantly more time from the foster parent because of the severity of their issues. These children often will be participating in more than one treatment program, and may need to participate in treatment in the foster parent's home. A child assessed at level 3 or 4 may have serious medical, behavioral or psychiatric issues or behaviors that require a safety plan.) Once the rate assessment has been completed, foster parents will receive written notification from the department notifying them of:

(1) The amount of the monthly foster care maintenance payment that will be paid to them on behalf of children or youth residing in their home;

(2) Their right to request a department review of the foster care rate level based on information that was not known or provided to the department; and

(3) The process to request a department review.

DEPARTMENT REVIEW OF FOSTER CARE MAINTENANCE RATE

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0510 ~~((Can the child be assessed at a different level, depending on the foster home?))~~ Requesting a department review of the foster care rate level. ((The assessment is based on both the child's needs and the foster parent's ability and time required to meet those needs. It is possible that a child would be assessed at a different rate in one home than in another, depending on the foster parent's abilities or circumstances as well as the resources and support services available to the child and foster family.)) (1) Foster parents must make a written request for the department to review their foster care rate level.

(2) Department review requests must:

(a) Be received by the department within 20 calendar days of the date of the letter informing the foster parent of their foster care rate level. If a request is not made within 20 days, the department will not review the foster care rate level.

(b) Include a statement explaining why the foster parent believes the rate level is incorrect. The foster parent must provide any additional information that was not known to the department when the rate was determined.

(c) Be sent to the individual and address identified in the department's letter informing the foster parent of the rate level for the child or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0520 ~~((Can the assessment change if the child's needs change?))~~ Department review of the foster care rate level. ((The child will always receive at least the basic rate (level 1) for the child's age category. However, the child may be assessed at level 2, 3, or 4, as the child's needs change or the circumstances of the foster parents change.

For example: In cases where the child's needs decrease or the time required of the foster parent to meet the child's needs decreases, the standardized assessment may assess the child at a lower rate. For example, on a reassessment a child might be assessed at level 2, when the child's previous rate had been at level 3. In cases where the child's needs or the demands on the foster parent increase, the standardized assessment may assess the child at a higher level.)) Department management employees who have not administered the standardized assessment tool for the foster parents requesting the review, must:

(1) Conduct the department review of the foster care rate level and consider if:

(a) Additional information provided by the foster parent, as authorized in WAC 110-50-0510, is relevant to the assessment; and

(b) Information was accurately documented into the standardized assessment tool.

(2) Complete the review within 14 calendar days of receiving the request for review.

(3) Not consider information about any children or youth outside the standardized assessment tool.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0530 ((How will the foster parent be notified of the rate the child will receive?)) Foster parents' notification of department review.~~ ((The foster parent will receive a written letter and payment plan, generated by the department's foster care rate assessment computer program, which will notify the foster parent of

~~(1) The amount of the monthly foster care maintenance payment that will be paid on behalf of the child;~~
~~(2) The right to review of the assessment and;~~
~~(3) How to exercise the right of review.))~~ Once the review is complete, the department must:

(1) Send foster parents a letter notifying them that the department:

(a) Upholds the results of the standardized rate assessment tool;
or

(b) Agrees the rate was wrongly calculated and will adjust the rate to the proper level.

(2) Include information in the letter to request an administrative hearing, per chapter 110-03 WAC, if the department upholds the results of the rate assessment.

ADMINISTRATIVE HEARINGS

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0540 ((Can a foster parent challenge the rate assessment?)) Foster parents' right to appeal.~~ ((A foster parent, acting on behalf of the foster child, may request a review of the rate assessment for the child.)) (1) Foster parents have the right to an administrative hearing, per chapter 110-03 WAC, to contest the following department's failure to:

(a) Respond to the request within the time frames in WAC 110-50-0520.

(b) Take into consideration new information related to the child or youth provided by the foster parents.

(c) Follow the standardized assessment process.

(2) To request an administrative hearing, the foster parent must submit a request in writing for an administrative hearing and send the request to the office of administrative hearings (OAH). The request

must be received by OAH within 90 calendar days of receipt of the notification of the department's decision on review, unless good cause for a later request is established under chapter 110-03 WAC.

(3) Foster parents do not have a right to request an administrative hearing to challenge or dispute:

(a) Established foster care rates;

(b) The standardized assessment tool; or

(c) The standardized procedure used to determine the rate.

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

WAC 110-50-0550 ~~((How does a foster parent seek a department review of the rate assessment?))~~ **Scope of administrative hearing.** ~~((1) The foster parent must make a written request for department review of the assessment.~~

~~(2) The request must be received by the department within twenty calendar days of the date of the letter informing the foster parent of the rate assessed for the child. If a request is not made within twenty days, the department will not review the assessment.~~

~~(3) The request must include a statement explaining why the foster parent believes the assessed rate is incorrect. The foster parent may provide additional information relevant to the questions asked on the foster care rate assessment standardized form.~~

~~(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.)~~ When making a determination during administrative hearings, administrative law judges (ALJ):

(1) May only consider the following if the:

(a) Standardized assessment process was not followed;

(b) Information obtained for the initial rate determination was not documented on the standardized assessment tool; or

(c) New information provided by the foster parents for the department review was not accurately documented on the standardized assessment tool.

(2) Must apply the rules in this chapter during the administrative hearing.

(3) Must not:

(a) Consider:

(i) Information about children or youth:

(A) Outside the standardized assessment tool;

(B) That was not provided to the department at the time of the:

(I) Initial or ongoing completion of the standardized assessment tool; or

(II) Department review requested by the foster parents.

(ii) Challenges to the:

(A) Established foster care rates;

(B) Standardized assessment tool; or

(C) The foster care rate assessment program.

(b) Make a determination that conflicts with a properly completed standardized assessment tool.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 110-50-0260 What steps must the department take when a child whose case management responsibility remains with the department is placed in a home certified by a CPA?
- WAC 110-50-0270 What activities must a child placing agency provide in order to receive payment from the department?
- WAC 110-50-0560 What does the department consider in reviewing the request?
- WAC 110-50-0570 How does the foster parent learn about the department's decision on review?
- WAC 110-50-0580 To whom does the department make payment for foster care?
- WAC 110-50-0590 How does the foster parent appeal the department's decision on review?
- WAC 110-50-0600 What law and rules govern the administrative law judge?
- WAC 110-50-0610 What issues may be decided by the administrative law judge?
- WAC 110-50-0620 What are the department's expectations for foster care providers to whom the department makes reimbursement for services?
- WAC 110-50-0630 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?
- WAC 110-50-0640 What is the effective date for payment of foster care?
- WAC 110-50-0650 What is the beginning date for payment of foster care?
- WAC 110-50-0660 What is the effective date for termination of foster care payments?
- WAC 110-50-0670 What are the department's general standards for family foster care reimbursement?
- WAC 110-50-0680 When may the department authorize a clothing allowance for a child in out-of-home care?
- WAC 110-50-0690 May the department consider foster care payments to the foster family in determining eligibility for public assistance?

- WAC 110-50-0700 What are the department's standards for making foster care payment to a relative providing care to the child served by department?
- WAC 110-50-0710 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?
- WAC 110-50-0720 What payment procedures must the department follow for children placed across state borders?
- WAC 110-50-0730 What limitations exist on administrative hearings regarding foster care payments?