

12-22

CERTIFICATE AND ORDER
FOR FILING
PERMANENT

FILED

DEC 22 1995

ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

ARCHIVES DIVISION
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of **PERMANENT** rule(s) adopted on¹ 12/22/95

by the Department of Human Resources State Office for Services to Children and Families
(Department) (Division)

to become effective² 12/29/95
Date

The matter having come before the Department of Human Resources State Office for Services to Children and Families after
Department Division

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: 10/1/95

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List **INDIVIDUAL** Rule Number(s) on appropriate lines below).
Chapter 413 (See attached for OAR numbers)

ADOPTED^{3,4,6,7}: _____

AMENDED^{4,6,7}: _____

REPEALED⁴: _____

RENUM. TO^{3,4,6,7}: _____

AMENDED & RENUM. TO^{3,4,6,7}: _____

as Administrative Rules of the Department of Human Resources State Office for Services to Children and Families
Department Division

DATED this 22 day of December, 1995

BY⁵: Elizabeth Uchytel
(Authorized Signer)

Title: Elizabeth Uchytel, Assistant Administrator

STATUTORY AUTHORITY: ORS HB2004 ; or

OTHER AUTHORITY: _____

STATUTES BEING IMPLEMENTED: HB2004

SUMMARY: OAR Chapter 413 is being adopted because the Legislative Assembly abolished the Children's Services Division and established the State Office for Services to Children and Families effective July 1, 1995. These administrative rules formerly belonged to the Children's Services Division and now must be adopted by the State Office for Services to Children and Families to carry out the functions mandated to the State Office for Services to Children and Families by HB2004.

For Further Information Contact

RULES COORDINATOR⁵: Kathleen S. Curlee Phone: 945-6649

Instructions:

- ¹ Date must be prior to or same day as filing - not subsequent to filing date.
- ² Date must be upon filing or any later specified date.
- ³ Numbers being assigned must be preapproved by Secretary of State's office, Archives Division, Administrative Rules Section.
- ⁴ Enter each rule number affected **INDIVIDUALLY** (i.e., 000-00-000, 000-00-000, & 000-00-000. Do not use series or parts of rules).
- ⁵ Required to be on file with Secretary of State's office, Archives Division, Administrative Rules Section.
- ⁶ Attach the **FULL TEXT** of each rule number being affected. Do not attach text of rules not affected.
- ⁷ Following the text of each rule attached, insert the numbers of the statutes being implemented.

SCF 6-1995

Prior Version

Special Rates

Purpose

413-090-100 These rules provide guidelines for a monthly payment to caregivers that is in addition to the basic standard rate for children in foster care. This payment is for services to children in the care and custody of the agency who have special needs inconsistent with their ages.

Statutory Authority: HB2004

Stats. Implemented: HB2004

Definitions

413-090-110 (1) "Activities of Daily Living (ADL)": Personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting, and behavior management.

(2) "Agency": The State Office for Services to Children and Families (SOSCF) of the Oregon Department of Human Resources.

(3) "Alternate Caregiver": Any person who is charged with supervision of the special needs child other than the certified foster parent with whom the child was placed by the agency.

(4) "Caregiver": The person who has been certified as a foster parent responsible to provide care for a child who is a ward of the court and/or under agency custody.

(5) "Child": An individual under 21 years of age, placed under SOSCF supervision.

(6) "Delegated Nursing Procedure": Routine and skilled nursing procedures identified in OAR 851-45-011 (Standards for Registered Nurse Teaching and Delegation to Unlicensed Person) that can be safely assigned to an unlicensed person to perform.

(7) "Direct Educational Costs": Costs prior authorized by the agency that are incurred by the caregiver that include educational services not eligible for payment by the local school district, educational services required to maintain this child in the home provided by a private resource, transportation to educational services excluded as part of the child's Individual Education Plan and/or planned recreation which is part of the treatment plan. Also, one of the three fiscal categories used by SOSCF to track special rate payments to foster parents.

(8) "Direct Maintenance Costs": Costs to maintain the child in a foster home as a result of increased daily supervision and/or direct costs essential to a child's care plan goals. (Title IV-E Maintenance definition: Maintenance payments directly related to a child's special needs to cover the cost of (and cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation.) Also, one of the three fiscal categories used by SOSCF to track special rate payments to foster parents.

(9) "Extraordinary Needs": Physical, mental, behavioral, emotional or educational needs inconsistent with the age of the child.

(10) "Foster Care": The condition wherein a child is placed in a foster home by the agency.

(11) "Personal Care Services": One-on-one medically oriented services for children with documented physical or mental impairments whose supportive care needs require a registered nurse assessment care plan, and periodic care plan review to allow the child to live safely in the most independent, least restrictive living situation. Also, one of three fiscal categories used by SOSCF to track special rate payments to foster parents.

(12) "Physician's Order": A written order by a physician that states personal care services are required to meet the child's care needs.

(13) "Registered Nurse": An individual licensed and registered to practice nursing.

(14) "Relative": The child's parents, step-parents, adoptive parent(s), spouse of any blood relative previously listed, siblings, step-siblings, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, and grandparents. (OAR 413-100-020).

(15) "RN Assessment and Care Plan": A registered nurse assessment of a child's needs and a Care Plan which indicates the care, treatments, and procedures that are to be provided by the caregiver to meet the child's needs.

(16) "Special Need": A trait or impairment peculiar to a child that requires extraordinary care or attention.

(17) "Special Rate": A supplemental payment for children in foster care that is determined by direct maintenance costs, and/or direct educational costs, and/or personal care services. Special rates help to maintain the child in foster care by compensating caregivers providing care, supervision and/or other services identified to address the child's extraordinary physical, mental, behavioral and/or emotional needs.

(18) "Special Rate/Personal Care Services Foster Care Authorization": A form completed by a service worker to request an additional monthly reimbursement to the foster parent, based on the care needs identified by the registered nurse and those direct costs unique to the individual child.

(19) "Special Rate Review Committee": A committee of agency staff representing the region or branch that may include a registered nurse and foster parents.

Statutory Authority: HB2004

Stats. Implemented: HB2004

Policy

413-090-120 (1) Children with special needs have requirements that produce additional costs and services on the part of the foster parents. The agency's foster parents are entitled to be reimbursed for their extra costs and services.

(2) These additional costs and services make up the child's special rate payment. The agency tracks them by three fiscal categories; direct maintenance costs, (Title IV-E), direct educational costs, (General Fund), and personal care services, (Title XIX).

Statutory Authority: HB2004

Stats. Implemented: Title IV-E, Title XIX

Special Rate Eligibility Requirements

413-090-130 To be eligible for a special rate a child must meet all the following conditions:

(1) All foster care policy related to child and foster parent eligibility must be met.

(2) All prior resources for achieving objectives, including the child's own resources, those available from family and/or friends, community resources and other agency resources must have been explored by the branch and been found insufficient or inappropriate to meet the identified needs.

(3) A determination regarding eligibility for Personal Care Services. This includes checking for Supplemental Security Income (SSI) eligibility, and whether the child has a documented, diagnosed physical or mental impairment.

(a) To be eligible for Personal Care Services a child must:

(A) Be eligible for Medicaid, either funded from the state general fund or Title XIX; and

(B) Have care needs which exceed the norm for the child's age which can be met through the Personal Care Services Program.

(b) To initiate the provision of Personal Care Services, a registered nurse must assess the child's Personal Care Service needs, develop a Care Plan based on a documented physical and/or mental impairment, secure the physician's signed prescription of the Personal Care Services to be provided, evaluate the competency of the caregiver, and recommend the number of hours per month of care required to meet the Care Plan.

(4) The child must have a basic foster care maintenance payment.

(5) The child's primary caregivers must be certified foster parents.

(a) If Personal Care services are to be provided, the child's foster parent(s) must be evaluated by a registered nurse and have written verification of competency to provide the care authorized in the child's RN Care Plan.

(b) It is the responsibility of the foster parent to select alternate caregivers who are knowledgeable of the specific care needs of the child and who understand and can follow the child's care plan.

(6) The child's Special Problem Code(s) must be entered on the agency's Integrated Information System.

(7) The child must have one or more physical and/or mental impairments that may include, but are not limited to, the following needs or conditions:

(a) Non-ambulatory inconsistent with their age and need individual care, such as lifting, bathing, toileting, feeding, dressing, etc.;

(b) Enuresis or encopresis inconsistent with their age, necessitating extra laundry such as clothing, bed linen (including protective mattress coverings), or diaper changing;

(c) Special diets prescribed in writing by a physician;

(d) Special treatment such as exercise or other physical therapy. Such services must be part of the written prescribed medical treatment plan;

(e) Medical supervision and/or care;

(f) Twenty-four hour supervision for their own protection and/or the protection of others;

(g) Aggressive, acting-out behavior which causes excessive damage to their own or their foster parents' property; i.e., destruction of bed linen, furnishings, furniture, and other household equipment;

(h) Special treatment prescribed by a physician or clinic that can be provided by foster parents with or without supplementary training and/or supervision;

(i) Extremely withdrawn and/or depressed behaviors which require frequent reassurance, attention, and/or stimulation;

(j) Underdeveloped personal habits and growth requiring intensive provision of day-to-day learning experiences by the foster parent(s) in keeping with the child's abilities;

(k) Developmental delays requiring skilled care;

(l) Aggressive, acting-out, abusive and disruptive behavior;

(m) Delinquent behavior;

(n) Extreme school problems which require excessive foster parent involvement.

Statutory Authority: HB2004

Stats. Implemented: Title XIX

Periodic Review of Eligibility Requirements

413-090-140 (1) The child's eligibility for a special rate shall be reviewed by the child's service worker and supervisor at intervals of six months or less from the effective date of the agreement. With justifying documentation to the branch manager, the child's service worker and supervisor shall make recommendations to continue, change, or terminate the special rate payment.

(2) Foster parents shall be notified by the agency of any intended rate changes prior to agency authorization of the Special Rate/Personal Care Services Foster Care Authorization form. The agreement shall be forwarded to the foster parent within 30 days of authorization.

(3) The Personal Care review requirement is to assure the RN Care Plan is appropriate and meets the child's needs. At a minimum, reviews will include:

(a) Periodic Review. At least every 180 days, the registered nurse and the child's caseworker will reevaluate the assessment and RN Care Plan and make changes, if appropriate;

(b) Physician's Order. At least annually, the child's physician prescribing the continuation or revision of Personal Care Services must evaluate the child's care need and have face-to-face contact with the child.

Statutory Authority: HB2004

Stats. Implemented: Title XIX

Cost Determination

413-090-150 (1) Direct maintenance educational and medically related transportation costs will be determined by the worker based on direct costs to maintain the child in the home.

(a) Direct maintenance costs (Title IV-E eligible) are:

(A) Diet - specify type (cost above regular diet);

(B) Laundry services - bedding and linen replacements (cost per load times the number of loads);

(C) Relief Care - (Number of hours times the rate) foster parent away (i.e., baby sitter). Relief care in foster homes with multiple children must be proportionately distributed among the children in the home unless relief care is specifically provided for individual children. Describe the reasons for relief care;

(D) In-Home Assistance - i.e., paid staff to assist in the non-medically related care of the child; describe reason (number of hours times the rate);

(E) Transportation - (only related to child - parental visits) (rate times the number of miles);

(F) Supervision - Costs not eligible for personal care services to maintain the child in the home;

(G) Other - (must come under definition of Title IV-E foster care maintenance payment). Social Security Act, Sec. 475(4), Title IV-E maintenance definition: "Payments to cover the cost of (and cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation."

(b) Direct costs (State General Funds) eligible are:

(A) Education services provided by a private resource and necessary to the maintenance of the child in the home; (Allowed only if not eligible to be paid by the local school district.)

(B) Transportation related to education services which has been excluded as a part of the cost of the child's Individual Education Plan;

(C) Medical-related transportation that has been verified by Adult and Family Services Agency of the Department of Human Resources as not qualifying for payment according to their medical policy (AFS Volume #VIII);

(D) Planned recreation which is part of the treatment plan for physically or mentally impaired children.

(2) Personal Care Services payment amounts will be determined by the worker based upon such Personal Care services to the child prescribed by a physician and described in the RN Assessment and Care Plan. Personal Care Services (Title XIX eligible) include:

(a) Basic personal hygiene, including bathing, hair grooming, nail care, foot care, dressing/undressing, and skin care;

(b) Toileting, including bowel and bladder care required for the total toileting process, helping to and from the bathroom, diapering and bedpan routine;

(c) Ambulation and transfer, including repositioning and assistance with or without mechanical aids;

(d) Feeding and eating with or without mechanical aids, including assurance of adequate fluid intake and preparation of special diets;

(e) Behavior management, in conjunction with a diagnosis from a qualified professional contained in the "Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised (DSM-III-R)," including problems related to adaptation, judgment, behavioral demands on others and incomplete socialization;

(f) Administration of prescribed and over-the-counter medications, including dispensing, observing for reactions, and assuring prescriptions are refilled when necessary;

(g) Standby Assistance. Standby assistance is being available to help the child with personal care tasks that cannot be scheduled for a child who cannot be left alone;

(h) Nighttime Care Needs. Nighttime Care is the time required to assist a child to sleep through the night;

(i) Supportive Services. Supportive services are those tasks authorized on the RN Care Plan that are not Activities of Daily Living, but are required to meet the child's identified goals, such as: preparation of a special diet, household assistance essential to the child's health and comfort, travel to medical appointments, and shopping for a child's health care or nutritional needs;

(j) Routine and Skilled Nursing Procedures. Nursing procedures are procedures related to Activities of Daily Living which can be delegated by a registered nurse to a person who is not a nurse. Procedures include mobility, care of unstable fracture/new cast; feeding, feeding per nasogastric tube; bladder, catheter care; bowel, care of colostomy or ileostomy; skin and nails,

care of non-healing wounds, nail care for diabetics; behavior, maintenance and care for child requiring soft restraints; oxygen/ventilator, administration; tracheostomy/suctioning, sterile care of stoma, suctioning; medications, injections, finger stick or other blood sugar tests; heart monitor supervision;

(k) Development of RN Care Plan. Based on the assessment, the RN will develop a Care Plan which identifies the child's impairment-related problem(s) and provides instructions for the care required.

(A) The registered nurse will enter on the assessment form a recommendation for the number of hours required monthly to meet the care plan. Any recommended hour change requires registered nurse acknowledgment by initial or signature next to the change;

(B) The caseworker, after discussion with the RN, will recommend to the Special Rate Review Committee a rate based upon the number of hours of Personal Care Services per month recommended by the registered nurse.

Statutory Authority: HB2004
Stats. Implemented: Title IV-E, Title XIX

Costs Reimbursable by SOSCF

413-090-160 (1) The agency will reimburse costs by the foster parent(s) for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas; those costs which are reimbursable to the state under Title IV-E eligible federal guidelines, (CF 172A, Part A), costs paid with state general funds (CF 172A, Part B), and Title XIX eligible federal guidelines, (CF 172A, Part C).

(2) Supervision costs above standard maintenance costs may be paid according to a combination of Title IV-E and Title XIX allowable costs.

(3) Supervision costs above standard maintenance costs may only be paid if the following conditions are met:

(a) A narrative is required for Title IV-E eligible supervision. An RN Assessment and Care Plan must be completed for Title XIX eligible supervision. Supervision provided for by Title IV-E funding must be for behaviors other than those behaviors provided for by Title XIX (personal care behavior management). Either or both must:

(A) Document the behaviors and direct care and supervision needs the child has that are beyond the normal requirements for a child of a similar age;

(B) Describe the necessary interventions and services the foster parent(s) must provide for each special need, including expected outcome which, if not achieved, would require that the child would need placement in a higher cost care program;

(C) Describe the foster parents' skill and experience which enable them to provide appropriate care for the child's special needs and behaviors.

(b) Authorization for any exceptions to the above rules/procedures or payment amounts is required by a regional manager or designee signature.

Statutory Authority: HB2004
Stats. Implemented: Title IV-E, Title XIX

Costs Not Compensated by SOSCF

413-090-170 Direct costs not compensated are:

(1) Kindergarten;

(2) Day care;

(3) Clothing;

(4) Regular school transportation;

(5) Special needs which may be paid for through the agency's "One-Time Payment for Special Needs," policy I-E.5.2.

Statutory Authority: HB2004
Stats. Implemented: HB2004

Reimbursement Requirements

413-090-180 Requirements for Special Rate payment include:

- (1) Billing. Billing for the service will be submitted on the agency's approved reimbursement form.
- (2) Periods of Absence. The agency will not pay providers for services not provided. (See policy I-E.5.1, OAR 413-090-030)
- (3) Employer/Employee Relationship. There is not an employer/employee relationship between the agency and the providers, or the provider's relief worker(s), authorized to receive reimbursement through the Special Rate Program.
- (4) Special Rate/Personal Care Services Foster Care Authorization Form. A caregiver can only be paid an amount above the standard family foster care rate for services authorized on the Special Rate/Personal Care Services Foster Care Authorization form, CF 172A.
- (5) Foster Parent Contract. When a certified foster parent is under contract with a licensed child caring agency to serve a child(ren) in their home, the agency may not enter into a separate contract with them to provide services to the same child.

Statutory Authority: HB2004
Stats. Implemented: HB2004

Payment Authorization

413-090-190 (1) Payment of a special foster care rate may be made only after:

- (a) The branch/region Special Rate Review Committee has:
 - (A) Reviewed the methods used to arrive at the special rate amount;
 - (B) Considered the amounts paid for services provided that may apply to more than one child; i.e., respite care, in-home assistance, laundry, transportation, etc.;
 - (C) Considered the equitability of rates for similar types of children.
 - (b) The agreement (CF 172A) is authorized by the signatures of the caseworker, foster parent(s) and supervisor. Exceptions must additionally be authorized by the Special Rate Committee chairperson and regional manager or designee;
 - (c) The required payment information has been entered on the agency's integrated information system.
- (2) A change in the foster care provider or revision of the special rate which produces a different rate than previously paid is a new special rate and as such requires a new agreement.
- (3) Children placed in foster homes outside the branch having custody and requiring a special rate must have an agreement completed by the branch having custody. The branch where the child is placed, if asked, is responsible to participate in assessing the child's needs and in completing the agreement. Agreement authorization shall be completed in the branch having custody.
- (4) Effective Date: The special rate is effective from the date of branch authorization. For special rate services provided prior to the date of the authorizing signature, the regional manager or designee may make the effective date of the agreement retroactive up to 90 days prior to the signature date.
- (5) End Date: The maximum period of time for a special rate agreement is 12 months. A special rate may be authorized for a lesser period as determined by the regional manager or designee. If a special rate agreement expires and is not renewed before the next regular scheduled payment date, foster care payment will revert to the basic maintenance rate.

Statutory Authority: HB2004
Stats. Implemented: HB2004

Exceptions and Variances

413-090-200 (1) Exceptions and variances consist of:

- (a) Costs that are not in these rules; or
 - (b) Costs that exceed \$500 per month.
- (2) Requests for exceptions and variances must be made in writing by the caseworker to the branch manager. Requests must state the reason(s) specific requirements of these rules

cannot be met or met only in modified form, and state the requested additional amount of time needed.

(3) Requests for exceptions and variances must be approved by the branch manager.

(4) The granting of an exception shall not constitute a precedent for any other provider or client.

Statutory Authority: HB2004
Stats. Implemented: HB2004

Termination of Special Rate

413-090-210 The Special Rate will be terminated when the child no longer meets the Special Rate eligibility requirements.

Statutory Authority: HB2004
Stats. Implemented: HB2004

Procedural Manual

413-090-220 All procedures and forms for the implementation of the Special Rate Program are contained in each State Office for Services to Children and Families.

Statutory Authority: HB2004
Stats. Implemented: HB2004