

	Department of Human Services <b>CHILDREN, ADULTS &amp; FAMILIES</b>	<b>NUMBER:</b> I-E.5.1.2 <b>OAR:</b> 413-090-0100 thru 0220
	<b>CLIENT SERVICES INDEX</b>	<b>SECTION:</b> E. Substitute Care
	<b>ISSUED BY:</b> Office of Safety and Permanency for Children  <b>TEMPORARY:</b> 10-13-06	<b>SUBSECTION:</b> 5. Payments 1. Maintenance and Treatment Services
<b>SUBJECT:</b> 2. Special Rates & Personal Care – OAR		

**REFERENCES:**

- ORS 418.005
- 851-047-0000 to 851047-0040
- Standards for Registered Nurse Delegation and Assignment of Nursing Care Tasks to Unlicensed Persons
- Social Security Act, Title 4 Park E
- Oregon General Fund
- Temporary assistance to needy families (TANF)
- Social Security Act, Title 19
- Oregon State Board of Nursing Guidelines
- DHS Integrated Information System – Special Problem Codes
- OMAP Medical Transportation Services Guide; Case Workers Guide, Ch 23 Diagnostic and Statistical Manual of Mental Disorders (DSM IVR)
- State Plan #88-4 Attachment 3-1-A, pages 9b, 9c, 9d and 9e
- I-E.5.1, Maintenance and Treatment Payments
- I-E.5.2, Payments for Special and/or Extraordinary Needs
- I-AB.2 Screening, 413-015-0200 through 0225

**FORMS**

- CF 172RNT, Registered Nurse Delegation Initial & Supervisory
- CF 172A(NPC), Part A – C – Special Rate Foster Care Authorization – Not for Personal Care
- CF 172A, Personal Care Services Foster Care Authorization
- CF 172RN, Personal Care Services Program Registered Nurse Assessment and Care Plan
- CF 172MD, Physician’s Order Request – Letter (Formatted for Branch Letterhead)
- CF 308, Plan/Service Authorization

**413-090-0100**

**Purpose**

These rules (OAR 413-090-0100 to 413-090-0220) describe the requirements for a monthly payment to a substitute caregiver that is in addition to the foster care maintenance payment.

This payment is for services to a child or young adult in the care and custody of the Department who has special needs inconsistent with his or her age.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0110**

##### **Definitions**

The following definitions apply to OAR 413-090-0100 to 413-090-0220:

- (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) "Alternate caregiver": Any person who is charged with supervision of the special needs child other than the substitute caregiver with whom the child was placed by the Department.
- (3) "Child": A person under 18 years of age.
- (4) "Delegated nursing procedure": Routine and skilled nursing procedures identified in OAR 851-047-0000 to 851-047-0040 (Standards for Registered Nurse Delegation and Assignment of Nursing Care Tasks to Unlicensed Persons) that can be safely assigned to an unlicensed person to perform.
- (5) "Direct educational costs": Costs prior authorized by the Department that are incurred by the substitute 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 planned recreation which is part of the treatment plan. Also, one of the four fiscal categories used by the Department to track special rate payments to foster parents.
- (6) "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.)
- (7) "District": A geographic area of one or more counties served by the Department and managed by a District Manager.

- (8) "Extraordinary needs": Physical, mental, behavioral, emotional or educational needs inconsistent with the age of the child.
- (9) "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 four fiscal categories used by the Department to track special rate payments to foster parents.
- (10) "Physician's order": A written order by a physician that states personal care services are required to meet the child's care needs.
- (11) "Provider" means a person approved by a licensed private child-caring agency to provide care for children or an employee of a licensed private child-caring agency approved to provide care for children.
- (12) "Registered nurse": An individual licensed and registered to practice nursing.
- (13) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.
- (14) "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.
- (15) "Special need": A trait or impairment peculiar to a child that requires extraordinary care or attention.
- (16) "Special Rate": A supplemental payment for children in foster care that is determined by direct maintenance costs, and/or direct educational costs. Special rates help to maintain the child in foster care by assisting caregivers providing care, supervision and/or other services identified to address the child's extraordinary physical, mental, behavioral and/or emotional needs.
- (17) "Special Rate Review Committee": A committee of Department staff representing the District Child Welfare office that may include a registered nurse and foster parents.
- (18) "Substitute care": The out-of-home placement of a child or young adult who is in the legal or physical custody of the Department.
- (19) "Substitute caregiver": A relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

- (20) "Young adult" means a person aged 18 through 20 years, who remains in the care and custody of the Department and lives in substitute care or lives independently, through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0120**

##### **Policy**

- (1) Children and young adults with special needs have requirements that produce additional costs and services on the part of the substitute caregiver. The substitute caregiver may be reimbursed for extra costs and services.
- (2) These additional costs and services make up the special rate or Personal Care payment of the child or young adult. The Department tracks them by three fiscal categories: direct maintenance costs, (Title IV-E); non-Title IV-E eligible expenses, (General Fund, and/or TANF); personal care services, (Title XIX).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0130**

##### **Special Rate/Personal Care Eligibility Requirements**

To be eligible for a special rate, a child or young adult must meet all the following conditions:

- (1) All Department policy related to child or young adult and substitute caregiver eligibility must be met.
- (2) All prior resources for achieving objectives, including the child or young adult's own resources, those available from family, friends, community resources, and other Department resources must have been explored by the caseworker and been found insufficient or inappropriate to meet the identified needs.
- (3) A determination regarding eligibility for Personal Care Services. This determination includes checking for Supplemental Security Income (SSI) eligibility, and whether the child or young adult has a documented, diagnosed physical or mental impairment.
  - (a) To be eligible for Personal Care Services, a child or young adult 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 age of the child or young adult 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 Personal Care Service needs of the child or young adult, develop a Care Plan based on a documented physical or mental impairment, secure the physician's signed prescription of the Personal Care Services to be provided, evaluate the competency of the substitute caregiver, and recommend the number of hours per month of care required to meet the Care Plan.
- (4) The child or young adult must have a basic foster care maintenance payment.
- (5) The substitute caregiver of the child or young adult must be certified by the Department or certified or approved by a licensed child caring agency.
  - (a) If Personal Care services are to be provided, the substitute caregiver of the child or young adult must be evaluated by a registered nurse and have written verification of competency to provide the care authorized in the RN Care Plan of the child or young adult.
  - (b) If Personal Care Services include RN delegated nursing tasks, the RN will use form CF 172RNT to document the introductory explanation, demonstration, and return demonstration of all delegated nursing tasks. Detailed written instructions, as well as side effects and/or adverse reactions and actions to be instituted should side effects occur, must also be outlined during the initial delegation process per Oregon State Board of Nursing (OSBN) Guidelines.
  - (c) It is the responsibility of the substitute caregiver to select alternate caregivers who are knowledgeable of the specific care needs of the child or young adult and who understand and can follow the care plan of the child or young adult. If alternate caregivers perform delegated nursing tasks for the child, they may receive RN training/written instructions per OSBN guidelines at the same time as the substitute caregiver. If this is not possible, an RN must notify the caseworker that alternate caregivers need delegation training and request authorization to schedule training for the alternate caregivers prior to providing care for the child or young adult. RN delegations are not transferrable.
- (6) Each Special Problem Code of the child or young adult must be entered on the Department's Integrated Information System.
- (7) The child or young adult must have one or more physical 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.

- (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 or care.
- (f) Twenty-four hour supervision for their own protection or the protection of others.
- (g) Aggressive, acting-out behavior which causes excessive damage to their own or their caregiver's property; such as destruction of bed linen, furnishings, furniture, and other household equipment.
- (h) Special treatment prescribed by a physician or clinic that can be provided by substitute caregivers with or without supplementary training or supervision.
- (i) Extremely withdrawn or depressed behaviors which require frequent reassurance, attention, or stimulation.
- (j) Underdeveloped personal habits and growth requiring intensive provision of day-to-day learning experiences by the substitute caregiver in keeping with the abilities of the child or young adult.
- (k) Developmental delays requiring skilled care.
- (l) Aggressive, acting-out, abusive and disruptive behavior.
- (m) Delinquent behavior.
- (n) Extreme school problems which require substitute caregiver involvement.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0140**

##### **Periodic Review of Eligibility Requirements**

- (1) The eligibility of a child or young adult for a special rate or personal care must be reviewed by the child or young adult's caseworker and supervisor at intervals of six months or less from the effective date of the authorization. With justifying

documentation to the District Manager or designee, the child or young adult's caseworker and supervisor must make recommendations to continue, change, or terminate the special rate or personal care payment. The Special Rate or Personal Care review requirement is to assure the Care Plan is appropriate and meets the needs of the child or young adult. A caseworker may consult with the RN or request the RN to complete a new assessment for this review.

- (2) A re-assessment for a Special Rate or Personal Care may occur at any time if the behavioral or medical conditions of the child or young adult change enough to warrant such re-assessment. The re-assessment must be authorized by the caseworker or supervisor for the child or young adult.
- (3) An Annual Review should be completed for every child or young adult receiving a Special Rate or Personal Care service. This review will be completed by the caseworker or RN depending on the type of assessment necessary. Physician's Order. At least annually, the child or young adult's physician prescribing the continuation or revision of Personal Care Services must evaluate the care need of the child or young adult and have face-to-face contact with the child or young adult.
- (4) Substitute caregivers must be notified by the Department of any intended rate changes prior to agency authorization of the Special Rate or Personal Care Services Foster Care Authorization form. The agreement shall be forwarded to the substitute caregiver within 30 days of authorization.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0150**

##### **Cost Determination**

- (1) Special maintenance costs will be determined by the caseworker based on direct costs to maintain the child or young adult in the home.
  - (a) Direct maintenance costs (Title IV-E eligible) are:
    - (A) Diet - specify type (cost above regular diet).
    - (B) Laundry services - launder clothing, bedding for the child or young adult due to his or her special needs, (a service beyond typical needs of a child or young adult this age) (cost per load times the number of loads).
    - (C) Transportation - cost associated with transporting the child or young adult for parental visitation.

- (D) Supervision - cost not eligible for Personal Care services to maintain the child or young adult in the home, documented on the 172 (NPC) Part A.
  - (E) Other - payment to cover the cost of (and cost of providing) clothing, school supplies, or a child or young adult's personal incidentals, that occur on an ongoing basis. The Department also provides Title IV-E foster care maintenance payments to cover the necessary costs incurred on behalf of a child or young adult who resides with his or her minor parent in substitute care. That payment will be based on the current basic foster care maintenance rate. This is not to be used to reimburse one-time payments.
- (b) Direct costs (non Title IV-E eligible expenses) eligible are:
- (A) Education services provided by a private resource and necessary to the maintenance of the child or young adult 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 the Division of Medical Assistance Programs (DMAP) of the Department of Human Services as not qualifying for payment according to its medical policy (DMAP Medical Transportation Services Guide; Case Workers Guide, Ch. 23).
  - (D) Planned recreation which is part of the treatment plan for physically or mentally impaired children or young adults.
  - (E) Relief Care: Based on the special needs of the child or young adult, an alternate caregiver provides temporary care of the child or young adult in substitute care.
- (2) Personal Care Services payment amounts will be determined by the Special Rate Review Committee based upon such Personal Care Services to the child or young adult prescribed by a physician and described in the RN Assessment and Care Plan. Personal Care Services (Title XIX eligible) include all of the following:
- (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. (DSM IV)," 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 or young adult with personal care tasks that cannot be scheduled for a child or young adult who cannot be left alone.
- (h) Nighttime Care Needs. Nighttime Care is the time required to assist a child or young adult 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 identified goals of the child or young adult, such as: preparation of a special diet, household assistance essential to the child or young adult's health and comfort, travel to medical appointments, and shopping for a child or young adult'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; care for a child or young adult requiring soft restraints due to a diagnosed medical condition; oxygen/ventilator, administration; tracheotomy/suctioning, sterile care of stoma, suctioning; medications, injections, finger stick or other blood sugar tests; heart monitor supervision. A delegated nursing procedure shall be reviewed every 60 days or more frequently based on the RN recommendation.
- (k) Development of RN Care Plan. Based on the assessment, the RN will develop a Care Plan which identifies the child or young adult'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.
- (C) The Special Rate Review Committee may add additional hours under Intensive Supervision Services, and Relief Care for the care provided to the child or young adult who requires intensive behavioral supervision beyond the RN assessment. This intensive supervision need must be documented.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0160**

##### **Costs Reimbursable by the Department**

- (1) The Department will reimburse costs by a substitute caregiver for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas: Costs which are reimbursable to the state under Title IV-E eligible federal guidelines, (CF 172A, Part A); costs paid with state general funds and TANF (CF 172A, Part B); 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 TANF or Title XIX allowable costs.
- (3) Supervision costs above standard maintenance costs include one or more of the following:
  - (a) Supervision Eligible for Title IV-E Funding (Part A - 172NPC). Supervision eligible for Title IV-E funding is only for behaviors or direct care needs that are beyond the normal requirements for a child or young adult of a similar age and the child or young adult does not have a documented diagnosis.
  - (b) Supervision Eligible for Title XIX (Part C - 172A). Supervision eligible for Title XIX is for behaviors or direct care needs that are beyond the normal requirements for a child or young adult of a similar age and the child has a documented diagnosis and an RN assessment and Care Plan has been completed.

- (c) Relief Care is only for a child or young adult whose documented behavioral supervision needs exceed the normal requirements for a child or young adult of a similar age and additional supervision is necessary to the maintenance of the child or young adult in the home.
- (4) The narrative for any supervision costs must:
- (a) Document the behaviors and direct care and supervision needs the child or young adult has that are beyond the normal requirements for a child or young adult of a similar age.
- (b) Describe the necessary interventions and services the substitute caregiver must provide for each special need, including expected outcome which, if not achieved, would require that the child or young adult would need placement in a higher level of care program.
- (c) Describe the substitute caregiver's skill and experience which enable the substitute caregiver to provide appropriate care for the special needs and behaviors of the child or young adult.
- (5) Reimbursement rate structure effective April 1, 2006. A rate structure was established to provide rate parity for similar type activities and equitable rates for similar types of special needs of children or young adults. An exception to policy may be granted through documentation and approval (OAR 413-090-0200).
- (a) Hourly Rate for Supervision           \$4.60
- (b) Transportation Cost - Per Mile       \$ .36
- (c) Laundry - Per Additional Load       \$1.00
- (d) Relief Care - Hourly Rate             \$4.60
- (e) Program Educational Expenses       Direct Cost Incurred - (Prior Approved)
- (f) Diet Cost                                    Direct Cost Incurred - (Prior Approved)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0170**

#### **Costs Not Compensated by the Department**

Direct costs not compensated are:

- (1) Kindergarten.
- (2) Day care.
- (3) Clothing.
- (4) Regular school transportation unless the substitute caregiver provides transportation for a child who attends the school of origin that he or she attended prior to removal from the parent's home.
- (5) Special needs which may be paid for through Department Policy I-E.5.2, "Payments for Special and/or Extraordinary Needs", OAR 413-090-0300 to 413-090-0380.

Stat. Auth.: ORS 4148.005

Stats. Implemented: ORS 418.005

#### **413-090-0180**

#### **Reimbursement Requirements**

Requirements for Special Rate payment include:

- (1) **Billing.** Billing for the service will be submitted on the Department's approved reimbursement form.
- (2) **Periods of Absence.** The Department will not pay a substitute caregiver for services not provided. (See Department Policy I-E.5.1, OAR 413-090-0030.)
- (3) **Employer/Employee Relationship.** There is not an employer/employee relationship between the Department and the substitute caregiver, or the substitute caregiver's alternate caregiver, authorized to receive reimbursement through the Special Rate Program.
- (4) **Special Rate/Personal Care Services Foster Care Authorization Form.** A substitute caregiver may only be paid an amount above the standard foster care maintenance payment for services authorized on the Special Rate/Personal Care Services Foster Care Authorization form, CF 172A.
- (5) **Foster Parent Contract.** When a provider is under contract with a licensed child caring agency to serve a child or young adult in the provider's home, the Department will not pay for services covered under another contract or maintenance payment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

**413-090-0190****Payment Authorization**

- (1) Payment of a special rate or for personal care may be made only after:
  - (a) The Special Rate Review Committee has:
    - (A) Reviewed the methods used to arrive at the special rate/personal care amount;
    - (B) Considered the amounts paid for services provided that may apply to more than one child or young adult; such as supervision, relief care, in-home assistance, laundry, transportation; and
    - (C) Considered the equitability of rates for similar types of children or young adults.
  - (b) The agreement (CF 172A) is authorized by the signatures of the caseworker, substitute caregiver, and supervisor. Exceptions must additionally be authorized by the Special Rate Committee chairperson and District Manager or designee.
  - (c) The required payment information has been entered on the Department's integrated information system.
- (2) A change in the substitute caregiver 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 (172A or 172NPC).
- (3) Children or young adults placed with a substitute caregiver outside the office having custody and requiring a special rate or Personal Care must have an agreement completed by the office having custody. The office where the child or young adult is placed, if asked, is responsible to participate in assessing the child or young adult's needs and in completing the agreement. Agreement authorization must be completed in the office having custody.
- (4) The special rate is effective from the date of local DHS child welfare office authorization. For special rate (172NPC - Non-Personal Care) services provided prior to the date of the authorizing signature, the District Manager or designee may make the effective date of the agreement retroactive up to 90 days prior to the signature date. For Personal Care Rates the above does not apply. The Personal Care Rate is effective on the date the RN does the assessment. This date may be retroactive only to the 1st of the month in which the RN did the assessment.
- (5) End Date: The maximum period of time for a special rate or Personal Care Authorization is 12 months. A special rate or Personal Care may be authorized for a

lesser period as determined by the District Manager or designee. If a special rate or Personal Care Authorization expires and is not renewed before the next regular scheduled payment date, foster care payment will revert to the basic maintenance rate.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0200**

##### **Exceptions and Variances**

- (1) Exceptions and variances consist of:
  - (a) Costs that are not in these rules (OAR 413-090-0100 to 413-090-0220); or
  - (b) Costs that exceed \$500 per month.
- (2) Requests for exceptions and variances must be made in writing by the caseworker to the District Manager or designee. 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 rates or amount of time needed.
- (3) Requests for exceptions and variances must be approved by the District Manager or designee.
- (4) The granting of an exception shall not constitute a precedent for any other substitute caregiver, child, or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-090-0210**

##### **Termination of Special Rate**

The Special Rate or Personal Care must be terminated when the child or young adult no longer meets the Special Rate eligibility requirements.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 418.005

**413-090-0220**  
**Procedure Manual**

All procedures and forms for the implementation of the Special Rate/Personal Care Program are contained in each DHS Child Welfare Office.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Prior Version