

Title 07 DEPARTMENT OF HUMAN SERVICES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

Chapter 11 Out of Home Placement Program

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Chapter 11 Out-of-Home Placement Program

Authority: Courts and Judicial Proceedings Article, §§3-801, 3-802, 3-815, 3-816.1, 3-817, 3-819.1, 3-819.2, 3-820, and 3-823; Education Article, §§7-101(b) and 15-106.1; Family Law Article, §§5-501, 5-504, 5-524—5-534, 5-701, and 5-709; Human Services Article, §9-101 et seq.; Annotated Code of Maryland (Agency Note: Federal Regulatory Reference: 42 U.S.C. §§620 et seq., 670 et seq.; 45 CFR §205.10; 45 CFR §303.72; 45 CFR 1355—1357)

.01 Purpose of Out-of-Home Placement Program.

The purpose of the Out-of-Home Placement Program of the Social Services Administration is to:

A. Provide short-term 24-hour a day care and supportive services for a child who is in the custody or guardianship of a local department of social services or who is voluntarily placed outside the family home because the child:

(1) Has been abused, abandoned, neglected, is dependent, or has a developmental disability or mental disorder;

(2) Is in serious immediate danger; or

(3) The child's parents, legal guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs;

B. Provide time-limited family reunification services to a child placed in an out-of-home placement, and to the parents or legal guardian of the child, in order to facilitate the child's safe and timely reunification; and

C. Concurrently develop and implement a plan in the best interests of the child to facilitate a planned, permanent living arrangement for the child who cannot be reunified.

.02 Goals of Out-of-Home Placement.

The goals of out-of-home placement include:

A. Increasing the percentage of children who are reunified with family, whose caretaker is awarded guardianship, or who are legally adopted;

B. Improving outcomes for children by reducing the:

(1) Entry rate of children into out-of-home placement;

(2) Median length of time children stay in out-of-home placement;

(3) Rate at which children re-enter out-of-home placement; and

(4) Number of physical placement changes within 24 months of entering out-of-home placement and the duration of the episode;
and

C. Improving outcomes for children by:

(1) Increasing the number of reunifications achieved within 12 months of entry into an out-of-home placement; and

(2) Decreasing the number of children in out-of-home placement over 24 months.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Abandonment" means to leave a child without any provision for support and without any person who has accepted long-term responsibility to maintain care and have custody and control of the child when:

(a) The whereabouts of the parents or guardian are unknown; and

(b) The local department has made reasonable efforts to locate the parent or guardian over a period of at least 6 months and has been unsuccessful.

(2) "Abuse" means:

(a) The physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed by:

(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

(ii) Any household or family member; or

(b) Sexual abuse of a child, whether physical injuries are sustained or not.

(3) "Administration" means the Social Services Administration.

(4) "Adoption" means the legal proceeding:

(a) By which an individual becomes the child of an adoptive family; and

(b) Which confers on the adopted child all the legal rights and privileges to which a child born to that family would be entitled.

(5) "Aftercare services" means a service to the child and caregiver when the child is emerging from out-of-home placement and is no longer in a paid out-of-home placement.

(6) "Age or Developmentally Appropriate Activities" means extracurricular, enrichment and social activities that are generally accepted as suitable for children of the same chronological age or level of maturity and that promote cognitive, emotional, physical, and behavioral growth.

(7) "Agency error" means failure by the local department to act:

(a) Upon information provided within prescribed time limits; or

(b) Correctly on information provided.

(8) Another Planned Permanent Living Arrangement-APPLA.

(a) "Another planned permanent living arrangement (APPLA)" means a permanency plan that addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs.

(b) "Another planned permanent living arrangement (APPLA)" includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

(9) "Board rate" means the reimbursement to the out-of-home placement provider for the child's maintenance expenses.

(10) "Case plan" means the document described in Regulation .13 of this chapter that includes:

(a) The reason the child entered care;

(b) The reasonable efforts that were made to prevent placement or reasons why prevention efforts were not appropriate;

- (c) The identification of the concurrent permanency plans and projected timeframes for achievement of each plan;
- (d) Whether the placement is the least restrictive and whether safety issues are addressed;
- (e) The local department's efforts to achieve permanency for the child;
- (f) The extent to which the court's orders have been carried out;
- (g) The services offered to the parents or legal guardian;
- (h) The services delivered to the parents or legal guardian;
- (i) The extent to which the parents or legal guardian have participated in the development of a service agreement; and
- (j) The extent to which the parents or legal guardian have complied with the service agreement.

(11) "Child" means an individual younger than 18 years old, or between 18 and 21 years old if the court retains jurisdiction over the child and the individual meets the eligibility requirements of Regulation .04B of this chapter.

(12) "Child in need of assistance (CINA)" means a child who requires court intervention because:

(a) The child has been abused, neglected, has a developmental disability, or has a mental disorder; and

(b) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

(13) "Children with disabilities voluntary placement" is the placement of a child into out-of-home placement upon the request of the parents or legal guardian without relinquishment of legal custody when the child's disability necessitates care or treatment in an out-of-home placement.

(14) "Client error" means failure by the provider to correctly, promptly, or adequately report information to the local department.

(15) "Close proximity" means a location physically close enough to facilitate family visiting, consistent with the best interest and special needs of the child.

(16) "Concurrent permanency planning" means the process of taking concrete steps to implement both primary and secondary permanency plans, for example, by providing time-limited family reunification services while also exploring relatives as resources.

(17) "Cost of care" means all the costs associated with the care of the child in foster care, including the board rate, clothing allowance, and any supplemental expenditures made to meet the child's special needs.

(18) "Court" means the circuit court for a county sitting as a juvenile court.

(19) "Critical incident" means the abuse or neglect of a child or other serious incident involving a child that occurred in-home or in an out-of-home placement.

(20) "Dependent child" means a child who has been deprived of adequate support or care by reason of the death, continued absence from home, or physical, mental, or emotional incapacity or disability of the child's parent, guardian, or other custodian.

(21) "Episode" means the interval between the date a child enters an out-of-home placement and the date the out-of-home placement is closed due to the:

(a) Rescission of commitment by the court;

(b) Child reaching age 21;

(c) Finalization of the adoption of the child; or

(d) Voluntary placement agreement termination.

(22) Foster Care.

(a) "Foster care" means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in an approved family home.

(b) "Foster care" includes:

(i) Services to the child's parents or legal guardian, siblings, and relatives in order to achieve a safe, permanent placement for the child;

(ii) Services to the foster parents and supervision of the child in the foster care placement to assure that the placement promotes the child's physical, emotional, and intellectual growth and well-being; and

(iii) Aftercare services to the child and the child's caregiver to prevent placement disruption or reentry into out-of-home placement.

(23) "Gatekeeper" means the person or system designated as the point of entry for the public treatment foster care program, and who authorizes initial and ongoing treatment eligibility.

(24) Group Care.

(a) "Group care" means continuous 24-hour care and supportive services provided for a minor child placed in a licensed group facility.

(b) "Group care" includes:

(i) Services to the child's parents or legal guardian, siblings, and relatives in order to achieve a safe, permanent placement for the child;

(ii) Supervision of a child in an appropriate group care setting to assure that the placement promotes the child's physical, emotional and intellectual growth and well-being;

(iii) Post-placement services to the child and the child's caregiver to prevent placement disruption or reentry into out-of-home placement.

(25) "Guardianship to agency" means guardianship with the right to consent to adoption or long-term care short of adoption as defined in Family Law Article, 5-301(e), Annotated Code of Maryland, and:

(a) Is conferred by the court on the executive head of a child placement agency; and

(b) Terminates the rights, duties, and obligations of the birth parents.

(26) "Health care services" means the provision of medical services by a qualified licensed health care professional, which includes somatic or physical health, mental health, and dental health services.

(27) "Intermediate care" means a payment rate above the regular care rate paid to a foster home for a child requiring extra care and supervision because of special physical, emotional, or behavioral needs.

(28) "Kinship care" means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the fifth degree of consanguinity or affinity under Estates and Trusts Article, §1-203, Annotated Code of Maryland.

(29) "Least restrictive setting" means the most family-like setting consistent with the best interest and special needs of the child.

(30) "Legal guardian" means a person to whom guardianship of a child has been given by order of court, including a court other than the juvenile court.

(31) "Local department" means a local department of social services in a county or Baltimore City, and the Montgomery County Department of Health and Human Services.

(32) "Medical care" means physical, mental health, or dental treatment provided by a qualified, licensed health care professional.

(33) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function resulting from abuse or neglect.

(34) "Neglect" means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate that:

(a) The child's health or welfare is harmed or placed at substantial risk of harm; or

(b) There is mental injury, or a substantial risk of mental injury, to the child.

(35) "Out-of-home placement" means placement of a child into foster care, kinship care, group care, or residential treatment care.

(36) Overpayment.

(a) "Overpayment" means the amount of payment received by a foster care provider to which the provider was not entitled because payment was made for a child no longer under the care of, or in the home of, the provider.

(b) "Overpayment" includes payment resulting from:

(i) Agency error;

(ii) Client error;

(iii) Fraud; or

(iv) Suspected fraud as defined in this regulation.

(37) Parent or Parents.

(a) "Parent" means:

(i) The birth or adoptive mothers or fathers of the child; and

(ii) Includes by reference both the individual mothers and fathers as applicable.

(b) "Parents" means the birth or adoptive mothers and fathers of the child.

(38) "Payment irregularity" means an incorrect payment, that may be caused by an overpayment or fraud, which is not consistent with the amount allowable to a private agency provider or a foster care parent approved by the local department.

(39) "Permanency plan" means a plan specifying where and with whom the child shall live, and the proposed legal relationship between the child and the permanent caretaker or caretakers.

(40) "Progress report" means a provider agency's written update of a child's treatment plan for a specific time period.

(41) "Public treatment foster care program" is a treatment foster care program operated by a local department that has been approved by the Administration.

(42) "Public treatment foster parent" means a caretaker who is:

(a) Approved and trained by a local department public treatment foster care program to perform treatment parenting duties; and

(b) Responsible for implementing, monitoring, and assessing the progress of a child's individual treatment within the home setting.

(43) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that an out-of-home placement provider shall use when determining whether to allow a child in foster care under the responsibility of the State, to participate in extracurricular, enrichment, and social activities.

(44) "Recoupment" means a process used by local departments to recover overpaid amounts by withholding from foster care payments an amount determined appropriate, as provided in Regulation .35 of this chapter.

(45) "Recovery" means a process used by local departments to recover overpaid amounts from former foster care providers.

(46) "Regular care" means the rate paid for all children in foster care who require routine care and supervision.

(47) "Relative" means an individual who is at least 18 years old and related to the child by blood, marriage or adoption within five degrees of consanguinity or affinity.

(48) "Residential treatment" means continuous 24-hour care and supportive services for a minor child placed in a facility that provides formal programs of basic care, social work, and health care services.

(49) "Respite care" means short-term care for a child to temporarily relieve the foster family or treatment foster family or caregiver from the responsibility of providing 24-hour care for a child.

(50) "Restricted foster home" means a family foster home approved to serve only a specific child.

(51) "Return home" has the same meaning as reunification in §B(50) of this regulation.

(52) "Reunification" means reuniting the child with the child's parents or legal guardian.

(53) "Semi-independent living" means a program for youth 16 through 20 years old who are:

- (a) Participating in Youth Transitional Services as described in COMAR 07.02.10;
- (b) Living in a subsidized living arrangement; and
- (c) Supervised by a local department in an apartment or house.

(54) "Serious emotional or behavioral condition" means a limitation of an individual's capacity which adversely affects the individual's ability to perform in the following areas:

- (a) Daily living skills;
- (b) Community living skills;
- (c) Interpersonal relationships; and
- (d) Appropriate educational activities.

(55) "Service plan" means the written plan of activities required of the parent or caregiver and the agency to achieve permanency for the child.

(56) "Shelter care order" means the court's authorization to a local department to place a child into an out-of-home placement on an emergency basis.

(57) "Sibling" means a child that shares at least one parent with another child through blood relation or adoption.

(58) "State" means the State of Maryland.

(59) "Substitute care" means care provided by the foster parent or the employed staff of a group care facility.

(60) Supportive Services.

- (a) "Supportive services" means services provided to facilitate achievement of the child's permanency plan.
- (b) "Supportive services" includes:
 - (i) Casework services to the child's parent, legal guardian, relative or pre-adoptive caregiver; and
 - (ii) Supervision of the child's out-of-home placement to ensure the child's safety and well-being.

(61) "Suspected fraud" means an individual obtaining or attempting to obtain, or aiding another person in obtaining or attempting to obtain, money to which neither is entitled by willfully:

- (a) Retaining a check for services to a child or for a period that was already paid in full; or
- (b) Making a false statement or representation to the local department.

(62) Termination of Parental Rights means the legal process of obtaining guardianship and ending the rights and responsibilities of the parents.

(63) Time-Limited Family Reunification Services.

(a) "Time-limited family reunification services" means the services and activities that must be made available to the parents or legal guardian to facilitate the reunification of the child during the first 15 months of out-of-home placement.

- (b) "Time-limited family reunification services" include the following services mandated by 42 U.S.C. §629a:

- (i) Individual, group, and family counseling;
- (ii) Inpatient, residential, or outpatient substance abuse treatment services;
- (iii) Mental health services;
- (iv) Assistance to address domestic violence;
- (v) Services designed to provide temporary child care, including respite care, to families in crisis; and
- (vi) Transportation to or from any of the services listed in §B(59)(b)(i)—(v) of this regulation.

(64) "Time-limited voluntary placement" means the placement of a child for a maximum period of 180 days by the parent or legal guardian who requires short-term temporary care for their child and agrees to give the custody of the child to the local department.

(65) "Treatment" means the coordinated provision of services to a child based on a thorough assessment of medical, emotional, behavioral, or psychological conditions designed to produce a planned outcome in the child's behavior, attitude, or general condition.

(66) "Treatment aftercare" is a planned set of services provided to a child who is transitioning from the treatment foster care program to a traditional out-of-home placement or to a permanent placement.

(67) "Treatment foster care" means a program designed and implemented by a child placement agency to provide intensive casework and treatment in a family setting to children with special physical, emotional, or behavioral needs as described in COMAR 07.05.05.

(68) "Treatment plan" means a written description of the objectives, goals, and services to address the needs of a child, including the child's projected length of stay in the program.

(69) "Treatment team meetings" means meetings to review the implementation of a child's treatment plan and the progress, regress, and effectiveness of the treatment regime.

(70) "Voluntary placement" means the placement of a child into foster care voluntarily by the parent or legal guardian who is unable to care for the child, and is either time-limited or for children with disabilities as defined in Regulation .06 of this chapter.

(71) "Voluntary placement agreement" means a binding written agreement voluntarily entered into between a local department and the parent or legal guardian of a minor child that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the local department while the child is in placement.

(72) "Youth" means a child between the ages of 14 years old and 21 years old.

.04 Eligibility.

A. A local department shall initiate out-of-home placement for a child who:

(1) Is placed voluntarily in the custody or in the care of the local department, under a written agreement in accordance with Regulation .06 of this chapter;

(2) Is abused, abandoned, or neglected, has a developmental disability or a mental disorder, or is in imminent danger, or in serious immediate danger, so long as a court has:

(a) Determined that continued residence in the child's home is contrary to the child's welfare, and

(b) Committed the child to the custody or guardianship of the local department.

B. A child in out-of-home placement is eligible to remain in out-of-home placement until the end of the month in which the child becomes 18 years old, except that a child 18 to 21 years old may remain in out-of-home placement up to the 21st birthday so long as the child is:

(1) Completing secondary education or a program leading to an equivalent credential;

(2) Enrolled in an institution that provides post-secondary or vocational education;

(3) Participating in a program or activity designed to promote or remove barriers to employment;

(4) Employed for at least 80 hours per month; or

(5) Incapable of doing any of the activities in §B(1)—(4) of this regulation due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

C. A child is not eligible for out-of-home placement if the child:

(1) Is married;

(2) Is in the military; or

(3) Fails to comply with §B of this regulation.

D. A child may not be committed to the custody or guardianship of a local department and placed in an out-of-home placement solely because the child's parent or guardian lacks shelter or because the parent has a disability.

E. The local department shall make appropriate referrals to emergency shelter services and other services for the homeless family with a child who lacks shelter.

.05 Local Department Responsibility for Out-of-Home Placement.

A. A child is considered to enter out-of-home placement and the placement episode begins when the local department:

- (1) Removes the child from the home of the parents, legal guardian, or caregiver;
- (2) Acquires legal responsibility for the care and placement of the child through a:
 - (a) Court order, including a shelter care order; or
 - (b) Written voluntary placement agreement pursuant to Regulation .06 of this chapter; and
- (3) Places the child in an out-of-home placement.

B. A child is considered to leave out-of-home placement and the placement episode ends when the:

- (1) Child is no longer in an out-of-home placement as defined in Regulation .03B of this chapter;
- (2) Local department no longer has legal custody or guardianship;
- (3) Local department terminates aftercare services; or
- (4) Child who was in placement under a written voluntary placement agreement is returned to the care of the parents or legal guardian.

C. A local department with responsibility for a child's case shall:

- (1) Ensure that all information relating to the child and the child's family is used in planning for the child;
- (2) Ensure that reasonable efforts were made to prevent placement and achieve a permanency plan for the child;
- (3) Immediately initiate a search for relatives and the absent parent, if applicable;

(a) Within 30 days after removal of a child from the custody of the child's parent or legal guardian, subject to exceptions due to family or domestic violence, notify any found adult relatives and parents with legal custody of siblings of the child that the child has been removed from the parent's custody; and

(b) Include in the notice:

- (i) Options to participate in the care and placement of the child;
- (ii) Options that may be missed by failure to respond to the notice;
- (iii) Requirements to become a resource family home; and
- (iv) Services and supports available for the child if placed in the home.

(4) Provide the parents or legal guardian with services reasonably designed to facilitate reunification, unless contrary to the child's best interest;

(5) Develop a case plan that identifies the concurrent permanency plans in accordance with Regulation .13 of this chapter.

(6) Whenever possible:

(a) Develop concurrent permanency plans and service agreements with the parents or legal guardian:

(b) Include a visitation plan as part of the service agreement;

(c) Provide the parents or legal guardian with a copy of the completed concurrent permanency plans and service agreements;

and

(d) Arrange to discuss with the parents or legal guardian any intended changes in the concurrent permanency plans and service agreements;

(7) Implement a visitation plan which:

(a) Offers the parents or legal guardian weekly visits when one of the concurrent permanency plans is reunification;

(b) Offers siblings visitation with the child living in an out-of-home placement unless the court has ordered no visitation;

(c) Does not force a child to participate in visitation but refers the child to a therapist for assistance in resolving the visitation issues; and

(d) Offers transportation assistance as appropriate to the parents or legal guardian;

(8) Notify the parents or legal guardian of court hearings and periodic reviews, unless they have been notified by the court or the Citizens Review Board for Children (CRBC);

(9) Notify the parents or legal guardian of any change in the child's placement, unless doing so would not be in the best interest of the child for a reason specified in the case record;

(10) Notify the parents or legal guardian of any change affecting visitation, unless doing so is not feasible for a reason specified in the case record;

(11) Notify the parents or legal guardian before petitioning the court for commitment or termination of parental rights;

(12) Advise the parents or legal guardian of the availability of free or sliding fee legal services for any court proceeding;

(13) Provide aftercare services for up to 6 months following reunification to facilitate a safe and stable permanent placement, if appropriate;

(14) Provide the parents or legal guardian with a written and verbal explanation of their rights regarding out-of-home placement;

(15) Provide services to the child's family and monitor the safety of any children remaining in the family home;

(16) Ensure that, at a minimum, the caseworker:

(a) Has monthly face-to-face contact with the parent, legal guardian, and any children remaining in the family home;

(b) Maintains contact with the child and out-of-home placement provider as described in Regulation .17 of this chapter; and

(c) Has monthly contact with the out-of-home placement provider;

(17) Notify the appropriate court if the department has information indicating that a child's interest as a victim is not protected in a court case;

(18) Ensure that the child has opportunities for age or developmentally appropriate activities; and

(19) Ensure that the out-of-home placement provider is applying the reasonable and prudent parent standard in making decisions regarding the child's engagement in age or developmentally appropriate activity opportunities.

.06 Voluntary Placement.

A. Time-Limited Voluntary Placement.

(1) If a parent or legal guardian is temporarily unable to care for a child because the parent or legal guardian is, or soon will be, hospitalized, incarcerated, or otherwise unable to parent the child, the local department may acquire responsibility for temporary care of the child by accepting a voluntary placement of the child by the parent or legal guardian, under a binding written agreement between the local department and the parent or legal guardian.

(2) A child may not remain in out-of-home placement under a time-limited voluntary written agreement for more than 180 calendar days.

(3) The local department may accept a time-limited voluntary placement only when all of the following conditions are met:

(a) Reasonable efforts have been made to prevent the need to place the child;

(b) The local department believes that the parent or legal guardian will meet all responsibilities as set forth in Regulation .07 of this chapter;

(c) Both parents, the parent with sole legal custody, the sole caretaker parent of the child, or the legal guardian signs a binding written agreement;

(d) The parents or legal guardian who are parties to the voluntary agreement sign a document that gives the local department the authority to consent to medical care, as set forth in Regulation .08 of this chapter;

(e) The parents who are parties to the voluntary agreement pay child support in accordance with Regulation .29 of this chapter; and

(f) The placement is made in support of a plan of service to the parents or legal guardian designed to lead to reunification within 180 calendar days.

(4) The local department shall:

(a) Give written and oral notice to the parents or legal guardian that the time-limited voluntary placement agreement can be revoked at any time by a written revocation signed by the same individual or individuals who signed the voluntary agreement; and

(b) Inform the parents or legal guardian that the local department shall petition the court for custody if it is determined that the child's best interest requires out-of-home placement for longer than 180 calendar days.

(5) Upon receipt of a written revocation, the local department shall:

(a) Promptly return the child to the parents or legal guardian; or

(b) Immediately petition the court for emergency shelter care for the child.

(6) The local department shall petition the court for custody:

(a) As soon as the local department determines that the child will require out-of-home placement for longer than 180 calendar days; or

(b) Whenever the local department determines that it is in the child's best interest.

(7) The child who continues to require out-of-home placement at the end of 180 calendar days of placement pursuant to a time-limited voluntary placement written agreement may remain in out-of-home placement only if a juvenile court has committed the child to the custody or guardianship of a local department.

(8) This regulation does not apply to children whose parents have signed a voluntary consent for adoption.

B. Children with Disabilities Voluntary Placement.

(1) The following may request a Voluntary Placement Agreement:

- (a) A parent;
 - (b) A legal guardian; or
 - (c) The Court.
- (2) A Voluntary Placement Agreement may not be initiated by a third party.
- (3) The local department shall make reasonable efforts to prevent placement in accordance with Md. Code Ann., Family Law Article, §5-525(e), Annotated Code of Maryland.
- (4) The local department shall conduct an assessment.
- (5) In order for the local department to sign a voluntary placement agreement, the following conditions must be met:
- (a) The child has a documented developmental disability or mental illness;
 - (b) A treatment provider such as a medical doctor, psychiatrist, or psychologist has provided a written recommendation which details the need for out-of-home placement;
 - (c) The child requires an out-of-home placement in order to obtain treatment directly related to the documented disability;
 - (d) The parent is unable to provide treatment or care;
 - (e) The goal is reunification with the family at conclusion of treatment;
 - (f) Local Care Team (LCT) meeting has been held to determine whether any alternative or interim services for the child and family may be provided by any State agency;
 - (g) An appropriate placement and placement date has been determined as follows:
 - (i) The placement must be in the least restrictive setting; and
 - (ii) A psychiatric hospital is not considered a placement;
 - (h) The Administration must approve the voluntary placement by signing the Children with Disabilities Placement Checklist;
 - (i) The parent and the Child Support Enforcement Agency must finalize a binding child support agreement detailing the amount and manner for child support payments;
 - (j) Both parents, a parent with sole legal custody, or a legal guardian has signed a voluntary placement agreement which gives the local department the responsibility for placement and care decisions related to the child; and
 - (k) The local department shall make reasonable efforts to prevent placement.
- (6) A voluntary placement cannot be made if the parent refuses to pay child support or enter into a written agreement.
- (7) A voluntary placement agreement cannot be signed prior to a placement date.
- (8) A child may remain in a Children with Disabilities Voluntary Placement beyond 180 calendar days or after the child's 18th birthday if:
- (a) A treatment provider such as a medical doctor, psychiatrist, or psychologist has submitted written documentation supporting the need to continue the voluntary placement due to the child's developmental disability or mental illness; and
 - (b) Before the 180th calendar day in placement or prior to a child's 18th birthday, a juvenile court determines that continuation of the voluntary placement agreement is in the child's best interest.
- (9) A local department may not seek legal custody as long as:
- (a) The child has a developmental disability or a mental illness;
 - (b) The placement is needed to obtain treatment or care related to the child's disability; and

(c) There is no allegation of child abuse or neglect as defined in Courts and Judicial Proceedings Article, §3-801(b),(s) and,(x), Annotated Code of Maryland.

(10) All cases under a children with disabilities voluntary placement agreement shall meet all service and case plan requirements for the out-of-home placement program as set forth in this chapter.

(11) A children with disabilities voluntary placement agreement may be terminated prior to a voluntary placement hearing and the child returned to the parent or parents or legal guardian within 15 calendar days of notice if the local department receives a written revocation from the parent or legal guardian that signed the voluntary placement agreement.

(12) The local department may rescind the voluntary placement agreement prior to a voluntary placement hearing provided that:

(a) The parent or legal guardian who signed the agreement provides the local department with a written revocation of the agreement: or

(b) The parent or legal guardian who signed the agreement moves out-of-State: or

(c) The parent or legal guardian who signed the agreement fails to fulfill the terms of the agreement including the parent refusing to pay child support in accordance with a child support order: and

(d) The local department provides to the parent or legal guardian 15 calendar days written notice which includes details of the reasons for rescission and an explanation of appeal rights and the local department has discussed available placement plans and options with the parent or legal guardian.

(13) A children with disabilities voluntary placement agreement may be terminated after a voluntary placement hearing has been held and the local department:

(a) Has received a written revocation from the parent or legal guardian that signed the voluntary agreement;

(b) The local department has discussed available placement plans and options with the parent or parents or legal guardian; and

(c) Has requested that the juvenile proceedings be terminated by sending copies of both the request for revocation and an attached revocation notice to the juvenile court, all counsel, the parent [,and] or legal guardian informing them that the child is no longer in a voluntary placement, that the local department has closed its out-of-home placement case and is requesting that the juvenile court close its case.

(14) The local department shall file a petition to request an emergency voluntary placement review hearing, regardless of whether a previous court hearing has occurred, if the local department:

(a) Is not in agreement with the parent or legal guardian's written request for revocation; and

(b) Has determined that the best interest of the child requires continued out-of-home placement for treatment and care.

(15) Each local department shall designate a person to administer requests for voluntary placement agreements who shall be:

(a) An existing staff member of the local department; and

(b) Provided with annual training by the Administration on policies and procedures regarding the voluntary placement of children with developmental disabilities or mental illnesses.

C. Nothing in the preceding sections shall preclude the local departments from taking appropriate action pertaining to child abuse and neglect as defined in Family Law Article, §5-701, Annotated Code of Maryland.

D. Enhanced After Care.

(1) The purpose of Enhanced After Care is to provide former Maryland foster youth an opportunity to re-enter foster care through a voluntary placement agreement so that they can continue learning and practicing independent living skills.

(2) The goal of Enhanced After Care is to ensure that the participants recognize and accept personal responsibility for making the transition into adulthood.

(3) To be eligible for Enhanced After Care, a youth shall be a former Maryland foster care youth:

(a) Whose commitment to the local department was rescinded after the age of 18 years; and

(b) Who was not discharged from foster care due to adoption, reunification, guardianship, marriage, or military duty; and

(c) Who enters into an Enhanced After Care Voluntary Placement Agreement with the local department in the jurisdiction from which the youth exited foster care or where they are receiving services.

(4) To continue to be eligible for Enhanced After Care, within 30 days of signing an Enhanced After Care Voluntary Placement Agreement, a youth shall be:

(a) Completing secondary education or a program leading to an equivalent;

(b) Enrolled in an institution which provides post secondary or vocational training;

(c) Participating in a program or activity designed to promote or remove barriers to unemployment;

(d) Employed at least 80 hours per month; or

(e) Incapable of doing any of the above described activities due to a medical condition.

(5) Youth who exit out-of-home placement after their 18th birthday shall apply for Enhanced After Care services prior to the age of 20 years and 6 months.

(6) Youth receiving Enhanced After Care may receive all services available to youth under the Out-of-Home Placement Program as set forth in this chapter.

(7) A youth may remain in an Enhanced After Care Voluntary Placement beyond 180 calendar days if before the 180th calendar day in placement, a juvenile court determines that continuation of the voluntary placement agreement is in the youth's best interest.

(8) The local department shall file a petition with the juvenile court to request an extension of the voluntary placement or to request an emergency voluntary placement review hearing if the local department determines termination of the voluntary placement agreements if appropriate.

(9) The local department shall terminate services for the following:

(a) Youth's failure to comply with the service agreement or the voluntary placement agreement;

(b) Youth turns 21;

(c) Youth marries;

(d) Youth enters military duty;

(e) Youth dies; or

(f) Youth voluntarily terminates the voluntary placement agreement.

(10) All cases under an Enhanced After Care Voluntary Placement Agreement shall meet all service and case plan requirements for the out-of-home placement program as set forth in this chapter.

.07 Parental Rights and Responsibilities.

A. When there is a conflict between the rights of the parents or legal guardian and those of the child, the child's best interest shall take precedence.

B. After a court has terminated parental rights, the parents no longer have rights as enumerated in this regulation.

C. Consistent with the best interest of the child, the parents or legal guardian of a child in out-of-home placement may:

(1) Upon request, obtain for the child an out-of-home placement consistent with their religious affiliation, if this placement is available and suitable;

(2) Meet the child's caregivers, unless doing so would pose a danger to the child or the caregivers;

(3) Contact the child's caseworker for information about the child or to discuss the child's case;

(4) Request a family team conference to discuss local department decisions regarding the child's placement;

(5) Petition the court to return custody of a child committed to the custody of the local department;

(6) Be represented by legal counsel in all court proceedings;

(7) Receive aftercare services; and

(8) Participate in decisions about major changes in the life of the child, unless those changes are of matters protected by the child's privacy rights or contrary to the child's best interest.

D. The local department shall encourage the parents or legal guardian to:

(1) Participate with the local department in preparing the child's concurrent permanency plans;

(2) Participate in the development of a service agreement;

(3) Meet regularly, according to a mutually agreed-upon schedule, with the local department representative to discuss progress toward achievement of the permanency goal; and

(4) Visit or contact the child regularly as planned with the local department or as ordered by a court, unless the contact has been determined by a court to be contrary to the best interest of the child;

(5) Attend all court, administrative, and citizen review hearings regarding the child.

E. The local department shall request the parents or legal guardian when appropriate to:

(1) Provide the local department with all medical (including mental health, immunization, and dental) records, educational, legal, financial, and other relevant information about the child, including the birth certificate, the child's Social Security number, and any custody decree affecting the child;

(2) Inform the local department and the court of any changes in address, employment, living arrangements, or other matters that would affect the plans for the child;

(3) Pay child support in accordance with Regulation .29 of this chapter;

(4) Identify and provide information on the whereabouts of the child's other parent and all known relatives;

(5) Maintain any existing health care coverage on behalf of the child or obtain health insurance when available;

(6) Be responsible for all medical copayments to the health care provider when private health coverage is available on behalf of the child; and

(7) Sign all consents required by federal and State law to permit the release of all medical and mental health information and records to enable the local department to provide services to the child and the child's family.

F. Services to Birth Parent.

(1) The local department shall make services available to the birth parent requesting services, irrespective of the age of the birth parent, to help the birth parent assess parental roles and responsibilities. These services include, but are not limited to:

- (a) Counseling;
- (b) Referral to job training; and
- (c) Financial assistance information.

(2) When an expectant birth parent who is considering placing a child with the local department for adoption requests services, the local department shall provide counseling and other appropriate services before the child is born and during any termination of the parental rights process.

(3) The local department shall help the birth parent gain access to the services necessary to accomplish the mutually agreed upon goals. While the child is in care, the local department shall assist the birth parent with resolving the problems that brought about the request for adoption planning.

(4) The local department shall inform the birth parent of the:

- (a) Parent's right to visit the child during the period before guardianship is granted;
- (b) Parent's right to withdraw consent as set forth in Family Law Article, §5-321(c)(1), Annotated Code of Maryland;
- (c) Search rights of birth parents and adoptees as set forth in Family Law Article, Title 5, Subtitles 4B and 4C, Annotated Code of Maryland; and
- (d) Parent's right to file a disclosure veto as set forth in Family Law Article, §5-3A-05(a), Annotated Code of Maryland.

(5) When the birth parent decides to place the child for adoption, the local department shall prepare a written placement agreement, which shall:

- (a) Set forth the placement plan; and
- (b) Include any special conditions, such as the preferred religion or race of the adoptive family, which the agency and birth parent mutually agree upon.

.08 Medical Care.

A. The local department shall encourage the parents or legal guardian to participate to the extent of the parents' or legal guardian's capability and availability in plans for the medical care of any child committed to or in voluntary placement with the local department.

B. When the local department holds guardianship with the right to consent to adoption, the local department has the authority to give whatever consent is needed for medical care.

C. At the time a child is taken into care, the local department shall:

(1) Ask the parents or legal guardian to sign a document authorizing the local department to consent to:

(a) An initial health care screening;

(b) A comprehensive health assessment that meets the requirements of the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program; and

(c) All routine and immediate medical care; and

(2) Seek medical guardianship from the court if the parents or legal guardian do not give consent, and, if the child is in need of immediate medical care, obtain treatment while consent is sought.

D. A local department caseworker or a law enforcement officer may take a child who may have been abused or neglected to a medical facility for examination and treatment without parental or legal guardian consent or court order, in accordance with Family Law Article, §5-712, Annotated Code of Maryland, and COMAR 07.02.07.07F.

E. The local department shall:

(1) Give notice to the child's parents or legal guardian before, and encourage participation in and attendance at, any planned evaluative, diagnostic, or inpatient medical care; and

(2) Promptly notify the parents or legal guardian of any treatment given without prior notice unless the notification violates the privacy rights of the child.

F. The local department shall document in the child's case record the actions taken by the local department to:

(1) Obtain medical consent;

(2) Involve the parents or legal guardian in decisions regarding the child's medical care; and

(3) Notify the parents or legal guardian of any medical care planned or given to their child.

G. Children in the custody or care of a local department shall be enrolled in Maryland's Medical Assistance Program.

H. If the child in an out-of-home placement has private health care coverage, the private coverage shall be the primary source of coverage and Medical Assistance shall be the secondary source of coverage.

I. Initial health care screenings and comprehensive health examinations of children in the custody or care of a local department shall be provided by a primary care physician who is certified by the Maryland Healthy Kids Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

J. The local department shall secure an initial health care screening for a child in out-of-home placement before placement or within 24 hours of placement, but not later than 5 working days following placement, except that a child who may have been abused shall receive immediate medical attention.

K. Within 10 working days of a child entering initial placement, the local department shall refer the child for a comprehensive health assessment. The local department shall ensure that every effort is made to secure the written assessment report by the 60th day of placement.

L. If the child's primary health care provider does not do the initial health assessment, the local department shall make the results of the comprehensive health assessment available to the child's primary health care provider or providers.

M. The primary care physician may make the professional decision to complete the initial and comprehensive health assessments at the same time, and shall forward all assessment results and any indicated follow-up to the local department.

N. Whenever health care needs are identified for a child in out-of-home placement, the local department shall ensure that appropriate follow-up appointments are made for evaluation, diagnosis, and treatment to meet the child's health care needs.

O. The local department shall ensure that all children in out-of-home placement follow the EPSDT schedule of preventive health care that includes screening components based on age from infancy through adolescence.

P. The local department shall schedule dental care for children 1 year old and older which shall include check-ups every 6 months and necessary dental treatment to be provided by the managed care organization or fee-for-service dental provider.

Q. All children in out-of-home placement shall have a vision exam once a year in addition to any vision screening performed as part of the EPSDT exam.

R. The local department shall encourage adolescents 10 years old and older to openly discuss any questions and concerns with health care providers related to sexuality and reproductive health care.

S. The local department shall request:

- (1) A substance abuse screening if the child's behavior or physical health indicates the likelihood of substance abuse; and
- (2) A full-scale assessment of the child to address the child's treatment needs if the screening results indicate substance abuse.

T. The local department shall develop and use a health passport for each child in out-of-home placement, which shall be kept current and accompany the child through the out-of-home placement system.

U. The health passport shall include the following information:

- (1) The identity of the medical facilities where the child usually receives care;
- (2) The health care visit report on the child's condition at placement as documented by the child's physician;
- (3) The child's immunization record, allergies/adverse reactions, chronic health problems, and present medications;
- (4) Developmental status for a child younger than 4 years old, or for a child with a disability;
- (5) Consents to health care and release of records; and
- (6) Receipts for health care and release of records.

V. At the time of a child's placement, the local department shall provide the child's out-of-home placement provider with the health passport, which has been completed to the extent possible.

W. The local department shall ensure that the child's case record contains the child's medical history and the most recent copies of the child's health care documents. When the documents are known to exist but have not been provided, the case record shall document efforts made to obtain them.

X. The local department shall use the child's private insurance and Medical Assistance card to obtain public mental health services for the child.

Y. The health passport shall be returned to the local department at the time the child leaves the placement.

Z. The local department shall provide the child who has exited out-of-home placement with a copy of the child's personal health records at no cost when:

- (1) The child is 18 to 21 years old and exits out-of-home placement; or
- (2) The child, who is younger than 18 years old at the time of exiting out-of-home placement, becomes 18 years old and requests the child's personal health records.

.09 Shelter Care.

A. In the case of serious, immediate danger to the child, the local department shall:

(1) Remove the child; and

(2) Immediately request authorization from the court or intake officer for shelter care until the next court date when a shelter care hearing is held.

B. Before the shelter care hearing, the local department shall attempt to locate the parents, guardian, custodian, or relatives and provide reasonable notice, oral or written, stating the time, place, and purpose of the shelter care hearing.

C. At the shelter care hearing, the local department shall:

(1) Describe the efforts that have been made but have been unsuccessful in preventing or eliminating the need for the removal of the child from the home;

(2) Describe the reasons why efforts to prevent placement could not be made before removal from the home;

(3) Describe the reasons why a child with a documented developmental disability or mental illness is not appropriate for a children with disabilities voluntary placement.

(4) Describe the child's need for out-of-home placement; and

(5) Make a recommendation of shelter care.

D. If the court orders shelter care, the local department shall place the child in the least restrictive setting consistent with the child's needs.

E. Before or during the shelter care period, the local department shall meet with the parents or legal guardian, and may hold a family team meeting that includes the parents, legal guardian, and relatives to:

(1) Identify all maternal and paternal relatives;

(2) Determine if continued out-of-home placement is necessary for the child who has been placed in shelter care; and

(3) Determine whether the child can be properly cared for at home or in the home of a family member, and if so, develop an appropriate plan for care of the child.

F. When the local department has any reason to believe that a child is to continue in out-of-home placement beyond the length of the shelter care order, the local department shall promptly file a petition with the court to request custody of the child.

G. A local department shall inform a relative with whom the local department places a child of the relative's right to apply to be licensed as a foster home for that child in accordance with COMAR 07.02.25.

.10 Efforts to Prevent Out-of-Home Placement.

A. Before accepting a time-limited or children with disabilities voluntary placement or seeking shelter care, the local department shall document in the case record reasonable efforts that have been made but have been unsuccessful in preventing or eliminating the need for removal of the child from the home, unless an emergency situation causes removal to be reasonable under the circumstances to provide for the safety of the child.

B. Placement prevention services are those services designed to alleviate the conditions which may make out-of-home placement necessary and may include, but are not limited to:

- (1) In-home aide services;
- (2) Day care;
- (3) Crisis counseling;
- (4) Family preservation;
- (5) Assistance in gaining access to emergency financial assistance;
- (6) Respite care;
- (7) Self-help groups;
- (8) Referral for medical care and medical insurance;
- (9) Special education services;
- (10) Mental health, drug or alcohol abuse counseling and treatment;
- (11) Referral to parenting classes;
- (12) Assistance in locating housing; and
- (13) Domestic violence counseling.

C. The local department shall make appropriate referrals to emergency shelter services and any other appropriate and available services for families with children lacking shelter, in accordance with Regulation .04D of this chapter.

D. The local department shall document in the child's case record:

- (1) Any placement prevention services that were provided;
- (2) The effectiveness of the provided services;
- (3) The reasons that placement was necessary; and
- (4) Specific services that would have been appropriate had they been available.

E. If the local department determines that the child's welfare requires removal, the department shall document in the case record the circumstances that support the judgment that prevention services would not be appropriate.

F. In a petition to the court to request custody of a child, the local department shall note the placement prevention services that the child and the child's family have received, or shall state the reasons why placement prevention services were not appropriate and therefore were not provided.

G. For a children with disabilities voluntary placement, efforts to prevent placement may include a request by the local department for an emergency voluntary placement hearing before placement based upon concerns related to the child's treatment and care needs.

H. Whenever the court orders an out-of-home placement, the local department's attorney shall ask the court to incorporate into its order a reasonable efforts finding, as described in Regulation .30 of this chapter.

I. When the local department petitions the court to make a determination of CINA for a child with a documented developmental disability or mental illness:

(1) The local department shall detail the reasons why a child with a developmental disability or mental illness is not appropriate for a children with disabilities voluntary placement as an effort to prevent placement;

(2) The local department shall, upon order of the court that has held in abeyance a finding on whether the child is a CINA:

(a) Assess or reassess the family and child's eligibility for placement in accordance with a children with disability voluntary placement agreement; and

(b) Report back to the court in writing within 30 days unless the court extends the time period.

J. The local department shall offer to place the child according to a children with disabilities voluntary placement agreement when so ordered by the court following a hearing to determine that the child and family are eligible for a voluntary placement.

.11 Out-of-Home Placement.

A. In order of preference, a child shall be placed with a relative caregiver, in a foster home, or in a group care setting.

B. A foster home used by the local department shall meet the standards for foster homes established under COMAR 07.02.25 and, except as outlined in Regulation .28 of this chapter, shall be located within the State.

C. A child shall be placed in the least restrictive setting appropriate to the child's needs and:

(1) In the local jurisdiction where the child's parent or legal guardian resides; or

(2) In another jurisdiction in the State if there is a compelling reason that it is in the best interests of the child because:

(a) The child has strong ties to:

(i) Family;

(ii) A placement resource; or

(iii) Other community resources in another jurisdiction in the State;

(b) Necessary specialized services are not available to the child in the local jurisdiction but are available in another jurisdiction in the State; or

(c) There are no placements available in the jurisdiction to meet the individualized placement needs of the child.

D. When it is necessary to place a child in another jurisdiction according to this regulation, the local department shall consider:

(1) The availability of resources to provide necessary services to the child;

(2) The accessibility to family treatment, if appropriate; and

(3) The effect on the local school system in the jurisdiction under consideration.

E. The local department shall place a child in a foster care or preadoptive home, except when the child requires extra care and supervision which cannot be provided in a foster care or pre-adoptive home.

F. A child shall be placed with other siblings in an out-of-home placement if it is in the best interests of the siblings to be placed together and placement of the siblings together does not conflict with a specific health or safety regulation.

G. If placement of the siblings together conflicts with a specific health or safety regulation, the local department may place the siblings together if the local department has made a written finding describing how placement of the siblings together serves the best interests of the siblings.

H. If the siblings are not placed together, the caseworker shall document in the record the reasons the siblings are placed apart, and include whether such a joint placement would be contrary to the safety or well-being of any of the siblings.

I. Any residential child care facility used by the local department shall meet the requirements for licensure for the facilities established in COMAR 14.31.05.

J. The local department shall notify the court, and all parties, whenever moving a child from one placement to another. If the child is moved from a court-ordered placement, the local department shall notify the court, all parties, and counsel before the move, or, if not possible, immediately after the move.

K. The local department shall, at the time of placement, make every effort to arrange a relative placement or foster home capable of meeting the child's needs on a long-term basis when the local department has reason to believe that the permanency plan for the child will be adoption or APPLA as defined in Regulation .03 of this chapter.

L. The local department shall make every effort to minimize the number of placements a child has during an episode of out-of-home care.

.12 Education for the Child in Out-of-Home Placement.

A. The local department shall ensure that, within 5 school days of being placed in out-of-home placement, a child of school age is attending school, unless this is unattainable for reasons outside the control of the local department.

B. School Stability.

(1) With respect to a child who is the custody of, committed to, or otherwise placed by the local department of social services in out-of-home placement, the local department shall determine whether it is in the child's best interests to continue the child's education at the school the child last attended prior to the most recent change in placement, except for "a child awaiting foster care placement" as set forth in the McKinney-Vento Act of 1987 and defined in COMAR 13A.05.09.02.

(2) In determining the best interests of the child under §B(1) of this regulation, the local department of social services shall, in consultation with the local education agency, consider the following factors, not in order of priority:

- (a) The child's age;
- (b) The school which the child's siblings attend;
- (c) The child's experiences at the school the child last attended;
- (d) The child's academic needs;
- (e) The child's emotional needs;
- (f) Any other special needs of the child;
- (g) Continuity of instruction;
- (h) Length of expected stay at current placement;
- (i) Likely location of the child's current and future permanent placement;
- (j) Time remaining in the school year;
- (k) Distance, time, and complexity of commute and the impact it may have on the child's education and other child-centered, transportation-related factors; and
- (l) The safety of the child.

(3) The local department of social services shall make efforts to seek input from the child's attorney, parent, parent surrogate, legal guardian and other persons who are able to contribute relevant information to the best interests determination made under this section, unless doing so will create undue delay in placement.

(4) The best interests determination made under this section shall be made:

(a) Prior to the end of the first school year after the child enters out-of-home placement, and prior to any change in out-of-home placement thereafter, unless there is an unanticipated, emergency change in the child's residential placement; or

(b) If the child's residential placement is changed due to an unanticipated emergency, as soon as possible after the change in residential placement, but no later than 5 business days thereafter.

(5) A child shall continue to be enrolled in and maintain attendance in the school of origin until the local department of social services completes the best interests determination in accordance with this section.

(6) The local department of social services shall provide written notice of the best interests determination made under §B(2) of this regulation to the child's school, parent, parent surrogate, legal guardian, and child's attorney within 5 business days after the best interests determination has been made.

C. The local department shall provide notice to a receiving school regarding the enrollment or imminent enrollment of a child who is in State-supervised care and shall provide to the receiving school:

(1) Name, address, and telephone number of the parent, legal guardian, parent surrogate, and the foster parent; and

(2) Name, address, and telephone number of the child's caseworker and the caseworker's supervisor.

D. The local department, parent, legal guardian, parent surrogate, foster parent, court-appointed attorney, or court-appointed special advocate acting on behalf of the child in State-supervised care may provide notice to a receiving school regarding the enrollment or imminent enrollment of the child.

E. The local department shall also inform the receiving school of the name of the sending school if that information is available.

F. The local department, if requested, may choose to aid the enrollment process by hand delivering required documents compiled by the sending school to the receiving school which includes a copy of the child's:

(1) Completed student withdrawal or transfer record;

(2) Academic records and immunization records; and

(3) Most recent individualized education plan or most recent educational assessment.

G. When the local department believes that the child may have special educational needs, the local department shall notify the school and request an evaluation of those needs.

H. When the local department believes that a child younger than 5 years old is developmentally disabled, the local department shall request an assessment from the Maryland State Department of Education, Maryland Infant and Toddler's Program/Preschool Services Branch.

I. The local department shall request that the juvenile court notify school officials that a child has been found CINA, so that the local department will be eligible to be notified if the child is habitually truant.

J. A child who is committed or voluntarily placed shall be educated in accordance with State Board of Education regulations, except the child may not be educated under a home instruction program.

K. Tuition Waiver.

(1) The Maryland tuition waiver provides a waiver of tuition for a Maryland public institution of higher education and is applicable to certain youth in, or formerly in, out-of-home care. In order to qualify for the tuition waiver, the youth shall be placed by a local department of social services in an out-of-home placement within the State:

(a) At the time of graduation from high school or successful completion of a General Equivalency Development Examination (GED);

(b) On the youth's 13th birthday and the youth is placed into guardianship or adopted from out-of-home placement after the youth's 13th birthday; or

(c) If the youth is the younger sibling of a youth, as described in §K(1)(b) of this regulation and is concurrently placed into guardianship or adopted from an out-home-placement by the same guardianship or adoptive family.

(2) The youth shall be exempted from paying any tuition at a Maryland public institution of higher education, regardless of the youth's receipt of scholarships or grants, if the youth:

(a) Is enrolled as a candidate for an associate's degree, a bachelor's degree, or a vocational certificate at a Maryland public institution of higher education on or before age 25; and

(b) Has filed for federal and State financial aid by March 1 of each year.

(3) Tuition is determined by the individual public institution of higher education and includes the cost of tuition and registration fees as well as all fees that are required as a condition of enrollment. Tuition does not include the cost of room, board, books, and transportation.

(4) The tuition waiver is available to the recipient for up to 5 years after first enrolling as a candidate for either an associate or bachelor's degree in a Maryland public institution of higher education, or until a bachelor's degree is awarded, whichever is earlier.

(5) The waiver is applied to the cost of tuition and registration fees as well as all fees that are required as a condition of enrollment. Scholarships and grants that the youth receives may not be used to pay for these costs.

(6) The youth shall inform the financial aid office at the Maryland public institution of higher education of the youth's potential eligibility for the tuition waiver.

(7) The youth is responsible for adherence to all financial aid policies of the Maryland Higher Education Commission and the Maryland public institution of higher education at which the youth is enrolled.

(8) The tuition waiver may not be applied retroactively.

L. Federal Education Training Vouchers Program.

(1) A youth may request assistance in obtaining funds for higher education or vocational training, through the federal Chafee Education and Training Vouchers (ETV) program.

(2) To obtain funds from the ETV program, the youth:

- (a) Shall have completed high school or received a GED certificate;
- (b) Shall have exhausted all other forms of financial aid/assistance before requesting funds;
- (c) May not be in default on any educational loan or owe a refund of an educational grant; and
- (d) Shall have filed for federal and State financial assistance by March 1 of each year for the upcoming school year.

(3) The ETV program is available to:

- (a) Youth eligible for Chafee Independent Living Services according to federal guidelines who are committed to Maryland;
- (b) Youth previously living in out-of-home placement and pursuing post-secondary education or training in an institution of higher education or vocational program; or
- (c) Youth who were adopted or enter guardianship from out-of-home placement after their 16th birthday.

(4) Youth who are 21 years old or older and are actively participating in the ETV voucher program may remain eligible until they reach 23 years old as long as they are continuously enrolled in post-secondary education and making satisfactory progress toward completion of the program.

(5) The ETV funds may be applied toward:

- (a) Tuition and school fees;
- (b) Room and board;
- (c) Off campus housing;
- (d) Books;
- (e) Rental or purchase of required equipment, materials, and supplies;
- (f) Childcare;
- (g) Tutoring costs related to attendance in the educational program; and
- (h) Transportation that is necessary for the student to attend school.

(6) The ETV application shall be forwarded to the Administration for review and approval by the Independent Living Coordinator.

.13 Case Planning for Permanency.

A. Within 60 days after removal, the local department, together with the child's parent or legal guardian, shall develop a written case plan for each child in out-of-home placement. The case plan shall include concurrent permanency plans, except as provided in §B of this regulation, and shall:

- (1) Describe the circumstances that make placement necessary;
- (2) State with whom the child was living before placement and their relationship to the child; and
- (3) Describe the efforts that were made but were unsuccessful in preventing or eliminating the need for removal from the child's home including the consideration of both in-State and out-of-State placement options, or why such efforts were not possible.

B. The local department shall:

- (1) Identify and develop a concurrent permanency plan, as appropriate;
- (2) Consider the following factors in determining that the concurrent permanency plan is in the best interests of the child:
 - (a) Child's ability to be safe and healthy in the home of the child's parent or legal guardian;
 - (b) Child's attachment and emotional ties to the child's siblings, parents, or legal guardian;
 - (c) Child's emotional attachment to the child's current caregiver and the caregiver's family;
 - (d) Length of time the child has resided with the current caregiver;
 - (e) Potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and
 - (f) Potential harm to the child by remaining in State custody for an excessive period of time;
- (3) Prioritize permanency plan options using the following order of preference:
 - (a) Reunification with the parent or legal guardian;
 - (b) Placement with a relative for adoption, or custody and guardianship;
 - (c) Adoption by a non-relative;
 - (d) Guardianship by a non-relative; or
 - (e) Another Planned Permanent Living Arrangement (APPLA);
- (4) Project the year and month when the concurrent permanency plans shall be achieved;
- (5) Describe the specific service and behavioral objectives that shall be achieved before the return of the child to the parents or legal guardian if one of the concurrent permanency plans is reunification;
- (6) Identify the services to be provided to the parents, legal guardian, and the child in order to achieve the permanency goals;
- (7) Describe how the local department plans to carry out any voluntary placement agreement;
- (8) Include consideration of the least restrictive setting appropriate to the child's safety and care needs and when determining a permanency plan consider the following in descending order of priority:
 - (a) The local jurisdiction where the child's parent or legal guardian resides; or
 - (b) Placement in another jurisdiction in the State, based on a compelling reason that it is in the best interest of the child because:
 - (i) The child has strong ties to family, a placement resource, or other community resources in another jurisdiction in the State;

(ii) Necessary specialized services are not available to the child in the local jurisdiction but are available in another jurisdiction in the State; or

(iii) There are no placements available in the jurisdiction to meet the individualized special placement needs of the child;

(9) Include the following considerations when it is necessary to place a child in another jurisdiction according to this regulation:

(a) The availability of resources to provide necessary services to the child;

(b) The accessibility to family treatment, if appropriate; and

(c) The effect on the local school system in the jurisdiction of consideration;

(10) Describe the type of home or institution in which the child has been, or is to be, placed, and discuss the safety and appropriateness of the placement with documentation describing how the placement is:

(a) The least restrictive setting available; and

(b) In close proximity to the parents' or legal guardian's home, consistent with the best interest and special needs of the child;

(11) Discuss how the local department plans to carry out specific court orders, if any, pertaining to the child;

(12) Include a plan for ensuring that the child receives safe and appropriate care;

(13) Include a plan for working to ensure that services are provided to the child, parents or legal guardian, and resource parents to improve the conditions in the parents' or legal guardian's home and to facilitate the child's return to his or her own safe home or other safe and appropriate permanent placement;

(14) Include a plan for working to ensure that services are provided to the child and foster parents to address the needs of the child while in foster care;

(15) Discuss the appropriateness of the services that have been provided to the child under the plan;

(16) For a child 14 years old or older, include a written description of the life skills training which will help the child prepare for independent living;

(17) To the extent available and accessible, include the most recent health and education records of the child, including:

(a) The names and addresses of the child's health and educational providers;

(b) The child's grade-level performance;

(c) The child's school record;

(d) Assurances that the child's placement in out-of-home placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(e) Assurances that the child who is 5 years old or older:

(i) Is enrolled, or in the process of enrolling, in a full-time elementary or secondary school program;

(ii) Has completed secondary school;

(iii) Is participating in, or scheduled to participate in, an independent study program administered by a local school district; or

(iv) If a child is incapable of attending school on a full-time basis due to a medical condition, the incapacity must be documented and regularly updated in the case plan;

(f) A record of the child's immunizations;

(g) The child's known medical problems;

(h) The child's medications; and

(i) Any other relevant health and education information required by Regulations .08 and .12 of this chapter; and

(18) Deliver and document reunification services offered and time-limited reunification funds utilized.

C. The case plan shall be reassessed within 120 days of the initial plan, and every 180 days after that.

D. The local department shall amend the case plan, as necessary, in light of the child's situation and of any court orders which affect the child.

E. Within 60 days following placement and whenever the plan is amended, or upon request, the local department shall give a copy of the permanency plan and service agreement to the:

(1) Child's parents or legal guardian; and

(2) Child or the child's attorney.

F. The local department shall maintain a copy of the case plan and service agreement in the case record.

.14 Provision of Reunification Services.

A. To the extent that funds and other resources are available, a range of services that will facilitate or maintain successful reunification of the child shall be:

- (1) Provided by the local department;
- (2) Made available by the local department through referral to another appropriate agency; or
- (3) Upon written approval by the director or the director's designee, purchased by the local department.

B. The types of services which may be purchased, provided, or accessed through referral to another agency may include but are not limited to:

- (1) Transportation costs for family visits or other reasons;
- (2) Rent deposits;
- (3) Household items;
- (4) Vocational counseling or training;
- (5) Mental health services;
- (6) In-home aide service;
- (7) Day care, including temporary day care or respite;
- (8) Individual, group, and family counseling;
- (9) Assistance to locate housing;
- (10) Crisis intervention services;
- (11) Parenting classes;
- (12) Special education services; and
- (13) Inpatient, residential, or outpatient substance abuse treatment services.

.15 Service Agreements.

A. As appropriate to each case, the local department shall develop a written service agreement:

- (1) With the child's parents or legal guardian, within 60 days of removal if the plan is to return the child to the parents or legal guardian;
- (2) With the parents or legal guardian within 30 days before the planned reunification; and
- (3) For the child 16 years old and older, with the child, the parents or legal guardian, and, where appropriate, the foster parents or representative payee.

B. When the permanency plan is reunification, the caseworker shall inform the parents or legal guardian, verbally and in writing, that:

- (1) Their cooperation in developing the service agreement and in fulfilling the terms of the agreement is imperative;
- (2) A concurrent permanency plan will be implemented in accordance with State and federal laws; and
- (3) A court which is considering whether to terminate parental rights will consider the extent to which all parties have fulfilled their obligations under a service agreement.

C. If the parents or legal guardian refuse to meet with the caseworker to develop an agreement, or cannot reach an agreement concerning reunification efforts, the caseworker shall notify:

- (1) The parents and the parents' attorney, or the legal guardian and the legal guardian's attorney, and the child's attorney in writing that the permanency plan of reunification shall be changed; and
- (2) All parties of the new permanency plan within 30 days after the first notice is sent.

D. The service agreement shall state what must be done, when, and by whom to:

- (1) Overcome problems so that the child may safely return home; or
- (2) Assist the child 14 years or older in preparing for the transition from out-of-home placement to independent living.

E. At a minimum, all service agreements shall include:

- (1) A statement of the goals and intent of the agreement;
- (2) A statement of the circumstances which made out-of-home placement necessary;
- (3) A statement or list of the problems or barriers that shall be overcome to achieve the goals of the agreement;
- (4) A list of the services and supports that the caseworker and the local department shall provide to assist the parents or legal guardian and the child, as appropriate to the case plan, as well as the time frames in which these services will be provided;
- (5) A list of the responsibilities and tasks that the parents or legal guardian and child shall undertake and accomplish, as appropriate to the case plan, and the time frames in which each task shall be completed;
- (6) A visitation plan that:
 - (a) Supports the continuity of the relationship among the child, parents or legal guardian, and siblings,
 - (b) Describes the place and frequency of visits,
 - (c) Identifies the participants in the visits, and
 - (d) Protects the child's safety;
- (7) A description of the place and frequency of meetings between the caseworker and the parents or legal guardian, foster parents, or other provider and the child;

(8) A statement that the overall progress of the child, and the progress of the parent or legal guardian, and the youth, when applicable, toward completing the tasks will be reviewed during scheduled meetings between the caseworker and the parents or legal guardian, foster parents, or other provider and child;

(9) A statement that the terms of the agreement may be modified by consent of the parties to the agreement;

(10) The length of time that the agreement is to be in effect, not to exceed the date of the next periodic review as described in Regulation .19 of this chapter;

(11) A statement of the possible actions to be taken by the local department if the terms of the agreement are not met;

(12) The signatures of all parties to the agreement and, in situations where the parties are unavailable or unwilling to sign, the caseworker's signature noting the reason why the parties to the service agreement did not sign; and

(13) The date or dates the agreement is signed.

F. The local department shall give a copy of the agreement to all parties, and, upon request, to the attorneys for the parties and shall file a copy in the case record.

G. At least once a month, the local department caseworker shall discuss with the parties their progress towards fulfilling the terms of the service agreement.

H. The service agreement may be renegotiated at any time that the parties agree that a change is needed.

I. Any lack of progress by the parents, legal guardian, or youth in fulfilling the terms of the service agreement shall be discussed with the parties and documented in the case record.

J. A youth who fails to comply with the terms of the service agreement may lose his semi-independent living subsidy and any other privilege that is a part of the independent living plan. Any notification to the youth regarding the youth's lack of progress or termination shall be sent to the youth and the youth's attorney.

.16 Decision to Make the Permanency Plan Other than Reunification.

A. In addition to engaging in the analysis set for in §C of this regulation and giving primary consideration to the health and safety of the child, the local department shall give serious consideration to implementing the permanency plan other than reunification if any of the following circumstances exists:

(1) The parent or guardian has subjected the child to any of the following aggravated circumstances:

(a) The parent or guardian has engaged in or facilitated:

(i) Chronic or severe physical abuse of the child, a sibling of the child, or another child in the household;

(ii) Chronic or life threatening neglect of the child, a sibling of the child, or another child in the household;

(iii) Sexual abuse of the child, a sibling of the child, or another child in the household;

(iv) Torture of the child, a sibling of the child, or another child in the household;

(b) The parent or guardian knowingly failed to take appropriate steps to protect the child after a person in the household inflicted sexual abuse, severe physical abuse, life threatening neglect, or torture on the child or another child in the household; or

(c) The child, a sibling of the child, or another child in the household has suffered severe physical abuse or death resulting from abuse by the parent or guardian or another adult in the household and all persons who could have inflicted the abuse or caused the death remain in the household;

(2) The parent or guardian has been convicted, in any state or court of the United States, of:

(a) A crime of violence, as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, against:

(i) The child;

(ii) Another parent or guardian of the child;

(iii) Another child of the parent or guardian; or

(b) Aiding or abetting, conspiring, or soliciting to commit a crime described above in §A(2)(a) of this regulation;

(3) The local department believes the child to be abandoned as defined in Regulation .03B of this chapter;

(4) The parent has involuntarily lost parental rights of a sibling of the child;

(5) The child was born addicted to or dependent on cocaine, heroin, methamphetamine, or a derivative of them, or with a significant presence of cocaine, heroin, methamphetamine, or a derivative of them in the child's blood, as evidenced by toxicology or other appropriate tests, and the local department has offered the mother admission into a drug treatment program within 90 days after the birth of the child, and the mother:

(a) Does not accept admission to the program or its equivalent within 45 days of the offer; or

(b) Fails to participate fully in the program or its equivalent;

(6) The child has been adjudicated to be a child in need of assistance, neglected, abused, or dependent in a prior juvenile proceeding and the local department has documented one of the following continuous or serious acts or conditions of the parent or legal guardian:

(a) A disability which renders the parent or legal guardian consistently unable to care for the immediate and ongoing psychological and physical needs of the child for long periods of time, even with appropriate and available supports and services to avoid discriminating on the basis of disability;

(b) Acts of abuse or neglect, as determined by child protective services of the local department, toward any child in the family;

(c) Repeated or continuous failure to provide for the child's physical, mental, or emotional health and development, even though the parent or legal guardian is physically and financially able; or

(7) The child has been continuously out of the custody of the parents or legal guardian, and in out-of-home placement with the local department for at least a year, and the local department has documented that:

(a) The conditions which led to the child's placement still persist, or similar conditions of a potentially harmful nature still exist;

(b) There is little likelihood that the conditions which led to the child's placement will be remedied at an early date to make it possible for the child to be returned to the family in the immediate future;

(c) Continuation of the parent-child relationship diminishes the child's prospects for early integration into a stable and permanent family; and

(d) The parents or legal guardian have failed to implement a plan for resumption of care which would provide adequately for the child's physical, mental, or emotional health and development, or to maintain regular interest or contact with the child.

B. The local department may request a waiver of reunification efforts, for one or both parents, or the legal guardian, from the court at the CINA adjudication hearing or whenever it is determined that the circumstances described in §A(1)—(4) of this regulation apply to a child adjudicated a CINA.

C. At each reconsideration in determining whether to continue a plan of reunification, the local department shall evaluate the parents' or legal guardian's:

(1) Progress toward remedying the conditions that led to the child's placement;

(2) Ability to provide appropriate care and supervision of other children in their care and custody;

(3) Cooperation with the local department in planning for, and meeting, the needs of the child;

(4) Attempts to maintain a relationship with the child through visits, phone calls, letters, and other means; and

(5) Likelihood of resuming care and custody of the child within 15 months of the child's placement.

D. The local department shall pursue termination of parental rights for a child who has been in out-of-home placement for 15 of the most recent 22 months unless:

(1) The case record documents that inadequate services were provided by the local department to the parents or legal guardian;

(2) The child is placed permanently with a relative; or

(3) A compelling reason exists.

E. When the local department is required to pursue termination of parental rights as required in §D of this regulation or the permanency plan is changed to adoption, except as noted in §I of this regulation, the local department shall:

(1) Ask the parents or legal guardian if they will consent to adoption; and

(2) Refer the case to the local department's attorney within 30 days of the date the plan is changed.

F. When the case is referred to the attorney, the attorney shall, within 30 days, petition the court for guardianship with the right to consent to adoption.

G. Adoption Services to Child.

(1) Criteria. Adoption services shall be available to any child:

(a) Whose birth parent voluntarily relinquishes the child for adoption;

(b) Whose birth parent is considering relinquishing the child for adoption because of an inability to sustain adequate parental responsibilities;

(c) For whom the decision to pursue permanency planning through adoption is considered by the local department to be in the best interest of the child; or

(d) For whom there has been a referral from another service program for local department adoption planning.

(2) Decision.

(a) When an application for adoption services on behalf of a child is received, the local department and the birth parents shall make a decision regarding the appropriate case plan after the local department ascertains the facts and determines the need for the service.

(b) Before guardianship is awarded, children accepted for adoption services may be placed in preadoptive resource family homes, or other residential child care facilities approved by or under the supervision of the local department.

(3) Preadoptive Foster Care Placement.

(a) Eligibility for preadoptive foster care is set forth in Regulation .04 of this chapter.

(b) For a Native American child receiving permanency planning services, the local department shall:

(i) Comply with the federal Indian Child Welfare Act of 1978, 25 U.S.C. §1901 et seq.; and

(ii) Notify the Administration's adoption or out-of-home placement program staff when the local department decides on adoption as the permanency plan.

(4) Responsibility in Preadoptive Foster Care.

(a) The child in preadoptive foster care shall receive services as set forth in this chapter and the local department shall retain ultimate responsibility for:

(i) Providing the child with appropriate physical care, emotional security, and intellectual stimulation; and

(ii) Observing and recording the child's developmental progress.

(b) The local department shall assist the child and the foster family in understanding the child's history in order to facilitate the child's separation from the child's birth family and attachment to an adoptive family.

(c) Significant social, biographical, medical, developmental, and educational information shall be immediately documented in the child's record for use in assessing the child's special needs and selecting the most appropriate adoptive family for the child.

(d) For a child in preadoptive foster care who is separated from siblings, the local department shall ensure the provision of sibling visitation as appropriate in the best interests of the siblings as set forth in Family Law Article, §5-525.2, Annotated Code of Maryland.

(5) Upon receipt of a report of a suspected child abuse or neglect related fatality or a fatality in an open service case, the local department shall comply with the Department's protocol for child fatalities, available from the Administration.

(6) For a child who is eligible for early intervention and special education services and whose parents are unknown, unavailable, or deceased, the local department shall request surrogate parents to secure the provision of those services.

H. Court-Ordered Termination of Parental Rights.

(1) Parental rights may only be terminated by court order.

(2) Only the executive head of a child placement agency or the attorney for the child may file a petition to grant guardianship to the agency.

(3) When a court determines that a child is an abandoned infant, the petition to grant guardianship to the agency must be filed within 60 days of the court's determination that the child is an abandoned infant.

(4) The petition to grant guardianship to the agency must be filed within 60 days of the court's determination that reasonable efforts to reunify the child and parent are not required according to §§A(1)—(4) of this regulation.

(5) When the local department decides that adoption is the appropriate permanency plan for the child:

(a) The local department shall refer the case to the local department's attorney within 30 days of making that decision, with or without the consent of the parents; and

(b) The attorney shall file the termination of parental rights petition within 30 days of receipt of the referral.

I. Court-Ordered Plan of Adoption by a Nonrelative.

(1) When the court determines that the permanency plan be changed to adoption by a nonrelative, the local department shall file a petition for guardianship:

(a) Within 30 days if the local department supports the plan; or

(b) Within 60 days if the local department does not support the plan.

(2) A termination of parental rights hearing shall be scheduled in place of the next 6-month review hearing.

.17 Visitation with the Child in Out-of-Home Placement.

A. The local department caseworker shall have regular visits with the child in out-of-home placement, as required in this regulation. However, the visits shall be more frequent than as indicated in this regulation when, in the caseworker's professional judgment, it is appropriate to do so.

B. For a child placed in a resource family home, group care a residential treatment facility, or a semi-independent living arrangement, the following apply:

- (1) The caseworker shall have a face-to-face visit with the child within 5 working days of placement, and subsequently at least once a month;
- (2) The majority of the monthly visits shall occur in the placement where the child lives; and
- (3) The caseworker shall have a face-to-face visit with the out-of-home placement provider at least once every 3 months to obtain information about the child's progress, care needs, medical status, and educational needs.

C. A child placed out-of-State in a foster home or a kinship home shall:

- (1) Be visited monthly by the local department when geographically or fiscally feasible; or
- (2) Be visited monthly by the receiving state when placed in accordance with an approved Interstate Compact For the Placement of Children, and the receiving state shall provide Maryland with quarterly visitation reports.

D. For a child placed in an out-of-State group home or residential treatment facility, the following apply:

- (1) The caseworker shall visit the child at the facility monthly if geographically or fiscally feasible; or
- (2) If it is not geographically or fiscally feasible for monthly visits, the caseworker shall visit the child in the placement quarterly.

E. Each visit with the child shall:

- (1) Be of sufficient duration and privacy to allow the child the opportunity to express any concerns regarding the placement, services, or needs;
- (2) Include a discussion, appropriate to the age and cognitive ability of the child, of the major focus areas related to the child, which includes the child's:
 - (a) Safety;
 - (b) Physical and mental health;
 - (c) Progress and concerns;
 - (d) Relationships or visits with parents, siblings, and other relatives; and
 - (e) Overall well-being.

F. Every contact with the child shall be documented in the child's record, including:

- (1) The date and location of the visit;
- (2) If other than a visit, the nature of the contact;
- (3) The name of the person making the contact;
- (4) The agency that made the visit, if other than the local department;
- (5) A summary of any significant results of the contact;
- (6) A discussion of major content areas as described in §F of this regulation;

(7) A discussion of monthly meetings between the caregiver or group care staff;

(8) Assessments of the quality of care being provided and the child's adjustment to the placement; and

(9) The child's safety evaluation using the approved safety assessment tool.

G. Every visit with the child shall be documented as immediately as possible in the case record but not later than 5 business days after the visit occurs.

.18 Procedures in Response to Runaway Children or a Child Abduction.

A. When the local department is informed that a out-of-home placement child is missing, abducted, or has not returned home at a prearranged time, the local department caseworker shall:

(1) Notify the:

- (a) Local law enforcement and obtain a complaint number;
- (b) Parents or legal guardian and their attorney unless guardianship is granted to the local department;
- (c) CINA attorney for the child; and
- (d) The local department's attorney;

(2) Compile information on the child's last known whereabouts and activities;

(3) Contact and speak with any person who may have relevant information, including:

- (a) Relatives;
- (b) Friends;
- (c) School personnel;
- (d) Persons at the child's place of employment, if applicable;
- (e) Persons in the child's neighborhood of origin;
- (f) Persons in the out-of-home placement neighborhood;

(4) Consult with the local law enforcement regarding the procedure to be followed to return the child and whether the local department or local law enforcement will pick up the child;

(5) Develop a plan for the child's placement upon return;

(6) Document the child's runaway or missing status with a begin and end date in the child's whereabouts section on the case plan;

(7) Document weekly search efforts to locate the child on the contact sheets in the case record;

(8) Keep the parents, legal guardian, placement provider, and attorneys updated weekly on the status of the search for the child;

(9) Maintain weekly contact with local law enforcement regarding the search status for the child; and

(10) If the caseworker has information that the runaway or abducted child has been located in another state, the caseworker shall contact the Compact Administrator for the Interstate Compact on Juveniles at the Department of Juvenile Services for assistance in returning the child.

B. Hold of Child's Placement.

(1) The caseworker shall contact the current placement provider to determine if the provider is willing to hold the child's placement.

(2) If the placement provider is willing to hold the placement:

- (a) Payment of the board rate may be made for up to 30 days;
- (b) No difficulty of care stipend payment may be made for the period the child is on runaway or missing from the placement;

and

- (c) If the child fails to return within 30 days, the provider cannot be paid beyond the 30-day time limit.

(3) If the placement provider will not hold the child's placement or the 30-day time period has expired, the caseworker shall:

(a) Contact the financial unit to stop the foster care payment for the child; and

(b) Conduct a new placement search for the child.

C. When the child is located:

(1) The local department with jurisdiction over the child is responsible for:

(a) Ensuring that the child has transportation to the local department;

(b) Assisting local law enforcement or other responsible party with transportation of the child to a placement if found within the local department's jurisdiction; and

(c) Retrieving the child if found in another jurisdiction or state;

(2) The parents or legal guardian, placement provider, and attorneys shall be notified that the child has been found;

(3) The local department shall call local law enforcement in the placement jurisdiction to escort the child to the placement if the child refuses placement;

(4) The caseworker shall interview the child regarding the reasons for running away, if applicable, and record the discussion on the contact sheet; and

(5) The local department shall obtain a physical examination of the child, and appropriate follow-up medical care for the child.

.19 Periodic Reviews.

A. General.

(1) A periodic review of a child's status shall be held not less frequently than once every 6 months by the juvenile court, and, if not reviewed by the court, may be reviewed according to §A(2) of this regulation.

(2) The review shall be conducted by the court, an administrative panel, or the Citizens' Review Board for Children (CRBC), as described in COMAR 07.01.06.

(3) At least one local board of the CRBC exists in every county and Baltimore City, and reviews the cases of children in out-of-home placement in accordance with its local plan as approved by the CRBC State Board and the Secretary of Human Services.

(4) Each local department shall provide the local board with information the board requires to perform its duties.

B. The periodic review shall determine the:

(1) Continuing necessity for and appropriateness of the placement;

(2) Extent of compliance with the permanency plan; and

(3) Extent of progress which has been made toward alleviating or mitigating the causes necessitating out-of-home placement.

C. The periodic reviews shall project a likely date by which the permanency plan for the child will be achieved.

D. The local department shall, in preparation for the periodic review held by:

(1) The court:

(a) Give 10 days notice of the review, whenever possible, to the parents or legal guardian, child, foster parent or the foster parent's attorney, pre-adoptive parent, or relative caregiver; and

(b) Document the notice in the child's case record;

(2) The CRBC, encourage the parents, legal guardian, foster parents, pre-adoptive parents, relative caregivers, the child's attorney, the child if appropriate, and any other interested individual to attend the review; or

(3) An administrative panel:

(a) Invite the participation of the parents, legal guardian, foster parents, pre-adoptive parents, relative caregivers, the child's attorney, and the child if appropriate; and

(b) Document the notice given in the child's case record.

E. At the permanency planning hearing, the local department shall detail:

(1) The efforts to finalize the permanency plan in effect for the child;

(2) The services to facilitate the achievement of a permanency plan for the child;

(3) The reasons the child's placement is stable and the least restrictive setting available and accessible for the child since the most recent hearing;

(4) The services to help maintain the child in the child's existing placement, including all services and benefits available in accordance with State law, regulations, court orders, or stipulated agreements accepted by the court regarding the provision of services to children in out-of-home placements;

(5) The efforts to meet the needs of the child, including the child's health, education, safety, and preparation for independence;

(6) The assignment of a caseworker that is responsible for the case at all times, and that the caseworker has received within 30 days of assignment all pertinent files and information about the case; and

(7) The consideration of both in-State and out-of-State options to finalize the permanency plans.

F. An administrative review shall be conducted by a panel of three or more adults, who may be employees or volunteers of the local department, at least one of whom is not responsible for case management or service delivery to the child, parents, or legal guardian.

G. The written documentation of the periodic review shall be placed in the child's case record.

H. The periodic reviews shall continue until the child exits an out-of-home placement.

.20 Permanency Planning Hearings.

A. The court determines the permanency plan for a child based upon the recommendations of the local department and the other parties at the permanency planning hearing consistent with the hierarchy of permanency plans described in Regulation .13 of this chapter.

B. At least 10 days before the permanency planning hearing, the local department shall:

- (1) Perform the tasks listed in Regulation .19D and E of this chapter;
- (2) Prepare a written report setting forth the local department's recommendations; and
- (3) Provide the report to the court, the child's attorney, and the child's parents or legal guardian.

C. Permanency planning hearings shall be scheduled in the following manner:

- (1) Within 30 days of a court order waiving reunification services;
- (2) Not later than 11 months after the original placement; and
- (3) Every 6 months thereafter, or every 12 months when the court has made a determination that the child will be placed with a specific caregiver on a permanent basis.

.21 Voluntary Placement Hearings.

A. Children with Disabilities Voluntary Placements.

(1) A local department may not seek legal custody of a child under a voluntary placement agreement if:

(a) The child has a developmental disability or a mental illness; and

(b) The purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(2) If a child needs to remain in out-of-home placement over 180 calendar days, the local department that placed a child pursuant to a children with disabilities voluntary placement agreement shall file a petition to request a voluntary placement hearing in a timely manner so as to obtain, before the 180th calendar day in voluntary placement or prior to the child's 18th birthday, a judicial determination that continuation of the voluntary placement is in the best interest of the child.

(3) At the voluntary placement hearing, the local department shall be prepared to address:

(a) Whether continuation of the placement is in the child's best interests;

(b) Whether reasonable efforts have been made to reunify the child with the family or place the child in a timely manner in accordance with the child's permanency plan;

(c) What supports and services will be needed for the child to remain in the family home if the voluntary placement is terminated;

(d) Whether the voluntary placement agreement should be amended to better address the needs of the child; and

(e) Whether there are outstanding issues concerning the care, safety, protection, and mental and physical development of the child for which the court may find it is necessary to order the local department to file a CINA petition.

B. Enhanced After Care.

(1) If the local department and youth agree that the voluntary placement shall continue after 180 calendar days from the signing of the voluntary placement agreement, the local department shall file a petition with the juvenile court before the 180th day, requesting a review of the voluntary placement.

(2) Before the 180th calendar day, the local department shall obtain a finding from the court that continuation of the placement is in the best interests of the youth.

.22 Case Record Documentation.

A. The local department shall establish and maintain a case record for every child in out-of-home placement containing all of the documents required by this chapter. The record shall also include the following:

- (1) All of the forms that are required by the State and federal government for statistical accounting;
- (2) A signed, file-dated copy of any petitions filed with the court;
- (3) The voluntary placement agreement or the court order for shelter, custody, or guardianship;
- (4) Any other court order;
- (5) All service agreements;
- (6) A dated and summarized record of each agency contact, or attempted contact, with the child, parents, foster parents, and any other individual with whom the agency has contact regarding or on behalf of the child;
- (7) A statement of consent for medical treatment signed by the child's parent or legal guardian, or a statement of the parent's or legal guardian's refusal to sign consent, and any court order giving medical guardianship to the local department;
- (8) A copy of any correspondence or reports written or received in regard to the child, including letters of notification to the child's parents or legal guardian regarding responsibilities, requirements, and case reviews.

B. When the child has been in out-of-home placement for 2 months or longer, the local department shall ensure that the child's case record contains, at a minimum:

- (1) A written case plan that, at a minimum, contains all of the information required by Regulation .13A of this chapter;
- (2) A copy of the child's birth certificate; and
- (3) The child's Social Security card or a photocopy of the child's card or a copy of the federal Form SS-5 sent to apply for a Social Security number for the child.

.23 Procedures to be Followed when Abuse or Neglect is Suspected in an Out-of-Home Foster Care Placement.

A. Initial Action.

(1) The public or private child placement agency employee who receives a report, or makes a personal observation, of suspected abuse or neglect in an out-of-home foster care placement shall immediately:

(a) Notify the following unit and staff of the local department in the jurisdiction in which the incident occurred:

(i) Child welfare screening unit;

(ii) The out-of-home placement caseworker or supervisor for each child in placement; and

(iii) If applicable, the foster home caseworker or supervisor; and

(b) Assess the level of safety for each child, and, if the child is not safe, remove the child and arrange for the child's protection and care.

(2) Within 5 working days, the local department shall provide notice of the report of suspected child abuse or neglect, and of the action taken in response to the report, to the:

(a) Administration;

(b) Child's parents or legal guardian, unless:

(i) The child sustained an injury in which case notification must be made within 24 hours of the report; or

(ii) Notification to the parents or legal guardian is contrary to the child's best interest;

(c) Child's attorney;

(d) Caseworkers for other children living in the out-of-home foster care placement;

(e) Parties permitted by State law to receive notification upon request; and

(f) Department's Office of Licensing and Monitoring if the child resides in a:

(i) Private agency foster home;

(ii) Group home, including a shelter; or

(iii) Residential treatment program.

B. Investigation.

(1) The local department's child welfare screening unit shall respond to the complaint of abuse or neglect as required by Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland, and COMAR 07.02.07, except that the investigator may not be the caseworker for any child in the out-of-home foster care placement.

(2) Additional children may not be placed in the home pending the outcome of the investigation and the decision by the local department director or designee as to the continued use of the home.

(3) The local department shall complete a preliminary reassessment of the home within 2 working days of the complaint to determine whether the home still meets the standards for a foster home pursuant to COMAR 07.02.25 or 07.05.02.

(4) If foster children remain in the home, the appropriate local department staff shall visit the foster home weekly until the local department director or designee renders a written decision as to the continued use of the home.

(5) The investigator, the caseworkers for the children in the out-of-home placement, and the foster home worker shall remain in close communication throughout the investigation.

C. Review of a Critical Incident in a Foster Home.

(1) Not later than 2 working days after the incident is reported, the local department shall, according to the Administration's Critical Incident Protocol, conduct a case conference which shall include the:

- (a) Child protective services caseworker;
- (b) Out-of-home placement caseworker and supervisor; and
- (c) Foster home and private agency caseworker, if applicable.

(2) After considering the information provided, the case staffing team shall produce recommendations regarding continued use of the foster home for the local department director or designee.

(3) Within 5 working days of receiving the recommendations, the local department director or designee shall render a written decision.

(4) A copy of the local department director or designee's decision shall be placed in the foster home record and the child's record.

D. Notification of Foster Home Disposition. Within 5 working days of the staffing review, the local department shall mail a copy of the local department director or designee's written decision to the:

- (1) Foster parent;
- (2) Administration;
- (3) Private child placement agency, if applicable;
- (4) Child's attorney; and
- (5) Parties permitted by State law to receive notification upon request.

E. Notification of Investigation Disposition. Upon receipt of the disposition report for the investigation, the local department shall:

- (1) Notify the:
 - (a) Foster parent;
 - (b) Child's parents, unless notification is contrary to the child's best interest;
 - (c) Child's attorney; and
 - (d) Parties permitted by State law to receive notification upon request; and
- (2) Place a copy of the letters of notification in the child's record.

.24 Return of Child to the Parents or Legal Guardian.

A. The decision by the local department to return a foster child to the care of the parents or legal guardian shall be made with the parent or legal guardian's participation after an assessment of their ability to safely care for the child and a thorough evaluation of the parent's or legal guardian's living situation and capacity to safely resume parental responsibilities.

B. The local department shall inform the court when it returns a child who has been committed to a local department to the parents or legal guardian and shall report the pertinent changes in the family or child's situation which support the return.

C. The local department before the return of a child to the parents or the legal guardian, shall notify the court and request a hearing if the court has committed the child to the local department upon a finding of child abuse.

D. The local department shall assist the parents or legal guardian with necessary preparations for the child's return home and shall assist the parent in:

(1) Getting those services that may be needed to aid the family such as:

- (a) Child care;
- (b) Temporary Cash Assistance (TCA);
- (c) Emergency Assistance to Families with Children (EAFC);
- (d) Medical Assistance; or
- (e) The Maryland Children's Health Choice Program (MCHCP);

(2) Locating the appropriate school placement; and

(3) Locating a medical care provider for the child.

E. The local department shall provide aftercare services to the parents in accordance with Regulation .25 of this chapter.

.25 Aftercare Services.

A. The local department shall provide aftercare services to the child and the aftercare placement family:

(1) For an initial period of up to 3 months, which may be extended an additional 3 months for a total of 6 months; and

(2) Beyond the 6 months based upon a compelling reason for extending the services:

(a) At 1 month intervals with the written approval of the local director; or

(b) For a specified time period as ordered by the court.

B. While providing aftercare services, the local department shall evaluate whether the family can provide adequate care to the child:

(1) Without supportive help from the local department;

(2) With less intensive services; or

(3) With the support of specified community services that are not provided by the local department, but which the local department may assist the family in accessing.

C. The local department shall evaluate every 3 months whether the:

(1) Family can keep the child safe, and provide for the child's well being so that custody may be returned to the parents or legal guardian;

(2) Child should be returned to out-of-home placement; or

(3) Parental rights should be terminated.

D. If the local department determines that the family is providing adequate care for the child, the local department shall make a final report to the court concerning the family's progress and shall request rescission of the commitment.

E. During the aftercare services period, the local department shall visit the child in the aftercare placement a minimum of once every 2 weeks and at least one caretaker must be present.

F. The local department shall include in the case record for an aftercare placement a:

(1) Case plan with a service agreement that is updated at least every 60 days during the aftercare placement, which includes a signed service agreement with the aftercare caretakers;

(2) Service plan specific to the needs of the child and family; and

(3) Safety assessment completed at the time of the aftercare placement.

G. Independent living aftercare services shall be made available to youth 18 to 21 years old as set forth in COMAR 07.02.10.

.26 Placement of Child with a Relative.

A. The local department shall give priority to the child's relatives over nonrelatives when determining permanency plans and placement.

B. The decision by the local department to place a child with relatives shall be made:

- (1) With the participation of the relatives;
- (2) After completing a home study to include:
 - (a) A physical description of the relative's living situation and family history;
 - (b) Services needed by the child; and
 - (c) Relative's ability and capacity to safely assume parental responsibilities; and
- (3) When feasible, in conjunction with a visit or visits by the child in the relative's home.

C. The local department shall assist the relatives in obtaining adoption, guardianship, or custody of the child.

D. The projected permanency plan of adoption, guardianship, or custody and guardianship shall have an expected achievement date of 24 months after the placement in care for foster children living with their relatives.

E. The local department shall assist the relatives with necessary preparations for the child's placement and shall assist the relatives with:

- (1) Getting those services that may be needed to sustain their family, such as:
 - (a) Child care;
 - (b) Temporary Cash Assistance (TCA);
 - (c) Emergency Assistance to Families with Children (EAFC);
 - (d) Medical Assistance; or
 - (e) The Maryland Children's Health Choice Program (MCHCP);
- (2) Locating appropriate school placement; and
- (3) Locating an appropriate medical care provider for the child.

F. The local department shall provide aftercare services to the child and relatives in accordance with Regulation .25 of this chapter.

.27 Custody and Guardianship.

A. Before custody and guardianship is granted to a relative or nonrelative of a child not committed to the local department, the local department shall:

- (1) Determine if departmental funds are available to support and maintain the child;
- (2) Assess all factors necessary to determine the best interests of the child; and
- (3) Pursuant to an order from the court, prepare a report on the suitability of the individual to be the guardian of the child that includes a:
 - (a) Home study for custody and guardianship;
 - (b) Child protective services history, if any;
 - (c) Criminal background check; and
 - (d) Review of the proposed guardian's physical and mental health history.

B. The local department shall submit the report described in §A of this regulation to the court within 120 days after the date that the court issued the order to the local department to produce the report.

C. If the report is not submitted to the court within 120 days, the local department shall be prepared to:

- (1) Attend a court hearing on the failure to submit the report;
- (2) Justify to the court why the report is delayed; and
- (3) Bear the cost of another agency completing the report if so ordered by the court.

D. For children committed to the local department, the local department shall initiate without a court order the custody and guardianship proceedings and perform the tasks listed in §A of this regulation.

E. An order granting custody and guardianship to an individual under this regulation terminates the local department's legal obligations and responsibilities to the child.

.28 Out-of-State Placement.

A. Interstate Compact.

(1) All placements of children for out-of-home placement or as a preliminary to possible adoption in Maryland from another state shall comply with the requirements of the Interstate Compact for the Placement of Children (Compact), Family Law Article, Title 5, Subtitle 6, Annotated Code of Maryland.

(2) The placement of Maryland children into states which are members of the Compact shall also comply with the Compact requirements.

(3) To place a child out of State, the Compact requires that before the two states involved sign a contract or an agreement, the plan shall be approved by the:

- (a) Other state based on its interstate placement requirements; and
- (b) Social Services Administration.

B. A foster child may be placed in a foster home or adoptive home located out of Maryland or by purchase of care from an agency or institution located in another state only under one of the following conditions:

(1) The foster family which has the child moved to another state and, after assessment of all pertinent factors, the local department decides that maintenance of the relationship between the foster family and the child would be in the child's best interest. Pertinent factors are:

- (a) The child's relationship to the foster family over a long period of time;
- (b) A lack of active family connections in the State; and
- (c) Imminence of discharge from care.

(2) The adoptive family which has the child moves to another state before finalization of the adoption.

(3) A local department has a plan approved by the Social Services Administration to use foster or adoptive homes in bordering states. This plan assures that the local department can provide responsible supervision of the placement and that the child's educational and other needs will be adequately met.

(4) The facility of any agency or institution in another state, licensed or approved for child care under the laws of that state, can meet the special needs of the child which cannot be met by facilities within this State.

(5) A private agency within the State, from which a local department purchases care, uses an out-of-State specialized treatment resource which cannot be provided by a facility within the State, and the local department concurs. Under this plan, the local department shall ensure that the requirements for an interstate placement are met.

C. When a foster child is to be placed out-of-State with a noncustodial parent, relative, or guardian, the local department shall ensure that the requirements for an interstate placement are met.

.29 Child Support and Other Resources for Reimbursement Towards Cost of Care.

A. All of the child's resources, including parental support, the child's own benefits, insurance, cash assets, trust accounts, and, for the child who is preparing for independent living, the child's earnings, are considered, as established in the service agreement, in determining the amount available for reimbursement of the cost of care.

B. In calculating the cost of care, the local department shall include the board rate, clothing allowance, any medical care payments made on behalf of the child, and any supplemental purchases made to meet the child's special needs.

C. The local department shall:

- (1) Initiate child support for every child in out-of-home placement; and
- (2) Pursue support enforcement activity for both absent parents, unless the:
 - (a) Legal rights of the parents or legal guardian have been officially terminated; and
 - (b) Parents, parent, or legal guardian have been officially notified of the termination.

D. In this regulation, "parent" means the legal father or mother or natural father or mother whose rights and obligations have not been terminated.

E. Legal action for support need not be taken against the father or mother when parental rights have been terminated.

F. The local department caseworkers shall:

(1) Inform the parents that they are responsible for the financial support of their children whether the child is in care by court order or by voluntary agreement; and

(2) Initiate a support action by furnishing information regarding the child's parents to the local child support enforcement (CSE) unit, which will undertake child support enforcement action for all out-of-home placement cases.

G. After the CSE unit secures a court order of support, the CSE worker shall:

- (1) Send a copy of the court order to the out-of-home placement caseworker and to the IV-E eligibility case reviewer;
- (2) Retain copies of the document in both the child's and the parents' or legal guardian's (if appropriate) case records; and
- (3) Notify the out-of-home placement worker of any changes.

H. Whenever a child's plan is reassessed, the out-of-home placement worker shall request information on whether support has been paid according to the terms of the order, which shall be:

- (1) Documented in the records; and
- (2) Considered in making recommendations to the court and reviewing panels.

I. When there is a change in the parents' or legal guardian's address or employment, or any other change which would affect the collection of child support, or when an out-of-home placement case is closed, the out-of-home placement worker shall forward this information to the Child Support Administration.

J. The resource from the child's own earnings is determined in a manner consistent with a plan for the child to eventually assume responsibility for the child's support as provided for in the service agreement.

K. Other Resources for the Child.

(1) Other resources available for the child may be in the form of cash assets, trust accounts, insurance (including survivor's disability insurance), or some type of benefit or supplemental security income for the disabled child.

(2) While in out-of-home placement, if the child is 18 years old or older and is the beneficiary of insurance or survivor's benefits, the child shall choose whether to:

(a) Receive benefits and pay the local department; or

(b) Designate the local department as the payee.

(3) The local department shall seek a representative payee for an incompetent child 18 years old or older.

L. The child's resources shall be applied directly to the cost of care, with any excess applied first to meeting the special needs of the child, and the net excess saved in a savings account for future needs. Any potential benefits from other resources shall be pursued and made available if possible to the local department as payee.

M. If excess funds saved for the child have not been spent before the child is discharged from out-of-home placement, the funds shall be:

(1) Returned to the child upon discharge if the child is 18 years old or older; or

(2) If the child is younger than 18 years old, transferred to the parent or legal guardian with whom the child will reside.

.30 Title IV-E Eligibility and Reimbursability. (Agency Note: Federal Regulatory Reference — 45 CFR 1355 and 1356)

A. Under the Social Security Act, Title IV, Part E, the federal government provides funds to states for maintaining certain children in out-of-home placement or in adoptive families.

B. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Aid to Families with Dependent Children (AFDC)" means the Income Maintenance program provided under Title IV-A of the Social Security Act, which requires that to be eligible for Title IV-E, the child must meet the AFDC criteria in the IV-A State Plan in effect July 16, 1996.

(b) AFDC Standard of Need.

(i) "AFDC standard of need" means the cost of a family's basic living needs that the State recognizes as essential for all families, and any special recurring or nonrecurring needs recognized by the State as essential for some persons.

(ii) "AFDC standard of need" means the AFDC standard of need in effect on July 16, 1996, which is the standard used for Title IV-E eligibility.

(c) "Constructive removal" means when the State agency has obtained legal responsibility for a child who is residing with a related or nonrelated interim caretaker and the child is allowed to remain with the interim caretaker, so that the child was not physically removed from the interim caretaker, but was constructively removed from the care and custody of the parent or other specified relative with whom they had physically resided within 6 months before court proceedings or execution of a voluntary placement agreement.

(d) "Date child is considered to have entered foster care" means the earlier of:

(i) A judicial finding of abuse or neglect; or

(ii) 60 days from the date the child is removed from the home.

(e) "Detention" means the temporary care of a child who, pending court disposition, requires secure custody for the protection of the child or the community, in physically restricting facilities.

(f) "Deprivation" means a child is deprived of the care and support of one or both parents as a result of:

(i) Death;

(ii) Physical or mental incapacity;

(iii) Continued involuntary absence (for example, due to incarceration);

(iv) Voluntary absence (for example, due to divorce or separation) from the home where the child resides; or

(v) Unemployment/underemployment of the primary wage earner.

(g) "Federal financial participation (FFP)" means the matching rate paid by the federal government for specified program activities, as provided in 45 CFR §1356.60.

(h) "Financial need" means a child's /family's income and resources in the removal home must be within the AFDC standard of need that was in effect on July 16, 1996.

(i) "Initial court order" means the very first court order that authorizes the child's removal from the home and includes a judicial finding of contrary to the welfare of the child.

(j) "Out-of-home placement" means placement of a child into foster care, kinship care, group care, or residential treatment care.

(k) "Physical removal" means that the agency has physically removed the child from the home of a parent or other specified relative.

(l) "Redetermination" is a case review completed every 12 months, at which time factors subject to change, are reconsidered and documented.

(m) "Removal home" means the home of the parent or other specified relative from whom the child was legally removed.

(n) Specified Relative.

(i) "Specified relative" means any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child.

(ii) "Specified relative" includes great-great-grandparents and first cousins once removed (children of first cousins).

C. Federal financial participation under Title IV-E is available for the child who meets the criteria for both initial IV-E eligibility and IV-E reimbursability, as set forth in §§D—N of this regulation.

D. Initial IV-E eligibility shall be determined when the child enters care.

E. The local department shall make all payments to out-of-home placement providers from State funds until IV-E eligibility has been determined.

F. Initial Eligibility. A child is initially eligible for IV-E funding only if all of the following requirements are met:

(1) The child meets the AFDC eligibility criteria in effect in the IV-A State Plan as of July 16, 1996, if:

(a) The child was living in the home of a relative specified in §B(2)(n) of this regulation and one of the following is true:

(i) The child would have received AFDC in that home in the month of the voluntary placement agreement or initiation of court proceedings, if an application had been made; or

(ii) The child was not living with an AFDC specified relative, but did live with such a relative in the preceding 6 months, and met the deprivation and financial need requirements as described in §B(2)(f) and (h) of this regulation in the eligibility month; and

(b) The child lived with a specified relative from whom custody was removed at some time within the 6-month period before the month of the voluntary placement agreement or initiation of court proceedings; and

(c) The child would have been AFDC eligible in that month, if the child had still been living in the home; and

(2) The child was the legal responsibility of a local department as a result of:

(a) Physical or constructive removal from the home, with a judicial determination that:

(i) Continuation of the child in the child's home would be contrary to the child's welfare;

(ii) Reasonable but unsuccessful efforts were made before placement to prevent or eliminate the need to remove the child, or that reasonable efforts could not be made because of the emergent nature of the situation; and

(iii) Reasonable efforts are now being made to reunify the child with the child's family; or

(b) A valid time limited or children with disabilities voluntary out-of-home placement agreement which was not a voluntary relinquishment for adoption.

G. If the initial court order does not contain the required finding that continuation in the home is contrary to the child's welfare, the child is ineligible for Title IV-E for the duration of that out-of-home placement episode.

H. If the initial court order does not contain the required finding that reasonable efforts were made to prevent placement:

(1) The child may still meet the legal status for initial eligibility if a judicial finding of reasonable efforts to prevent placement is made within 60 days of the date the child is removed from the home;

(2) The child's IV-E eligibility will begin the first day of the month in which the judicial finding of reasonable efforts to prevent removal is made;and

(3) If the determination concerning reasonable efforts to prevent removal is not made, the child is not eligible under IV-E for the duration of the stay in foster care.

I. A child who is initially eligible for IV-E funding shall continue to be eligible as long as the child remains in out-of-home placement. The child becomes ineligible:

(1) At the end of the month in which the child becomes 18 years old, except that a child 18 to 21 years old who remains in out-of-home placement is eligible up to the 21st birthday so long as the child is:

- (a) Completing secondary education or a program leading to an equivalent credential;
- (b) Enrolled in an institution that provides post-secondary or vocational education;
- (c) Participating in a program or activity designed to promote or remove barriers to employment;
- (d) Employed for at least 80 hours per month; or

(e) Incapable of doing any of the activities in §§I.(1)(a)—(d) of this regulation due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child; or

(2) When the child comes into care as the result of a time limited or children with disabilities voluntary placement agreement and the local department fails to acquire court-ordered custody with a judicial finding of best interests of the child to remain in placement within 180 calendar days of placement rendering the child ineligible on the 181st calendar day.

L. The child's care is reimbursable for any given month when all of the following conditions are met for that month:

- (1) There is a "reasonable efforts" finding specific to the child;
- (2) The child is in a IV-E reimbursable placement as defined in §N of this regulation; and
- (3) The local department has placement and care responsibility for the child.

M. Judicial Determination.

(1) A judicial determination of reasonable efforts to finalize the permanency plan shall be obtained not later than 12 months from the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care.

(2) If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within the prescribed time frame, the child becomes ineligible for Title IV-E payments at the end of the month in which the judicial determination was required to have been made and remains ineligible until such a determination is made.

(3) The child becomes eligible for IV-E payments again the first day of the month the judicial determination regarding reasonable efforts to finalize a permanency plan is made.

N. Only the following are reimbursable placements:

- (1) A fully licensed or approved resource family home meeting the standards as prescribed in COMAR 07.02.25;
- (2) A private, nonmedical group home or residential child care facility licensed by the State;
- (3) A public nonmedical group home or child care facility which accommodates not more than 25 children; or
- (4) A supervised independent living setting in which the child who is 18 years old is living independently.

O. A Title IV-E redetermination shall be completed every 12 months.

.31 State Standard Rates for Out-of-Home Placement under the Direct Supervision of a Local Department.

A. Board Rates and Clothing Allowance.

- (1) Board rates and monthly clothing allowances are set forth in Schedules A and B of Regulation .39 of this chapter.
- (2) The board rate is effective for the full month in which the child reaches the lower age specified for each group.
- (3) The board rate is based on the cost of maintenance expenses for the child.
- (4) The monthly clothing allowance covers the purchase and upkeep of clothing.

B. The emergency care rate is for the care of the child who was placed in out-of-home placement on an emergency basis. This rate may not be paid for more than 2 months.

C. The regular care rate, as defined in Regulation .03B of this chapter, is for the care of the child who requires usual and ordinary supervision in a foster family or pre-adoptive home.

D. A relative may be eligible to receive foster care rates for the care of a committed child if the relative's home meets the approval requirements for a foster home, as described in COMAR 07.02.25.

E. The intermediate care rate set forth in Regulation .39, Schedule A of this chapter is for the care of the child who requires intermediate care as defined in Regulation .03B of this chapter.

F. Foster parents who receive intermediate care rates shall:

- (1) Provide care for a child who requires intermediate care;
- (2) Have the desire to make a major investment of time, and the ability to give affection and attention without positive response from the child;
- (3) Be required to supervise or provide prescribed physical care, such as the preparation of special medication;
- (4) Have the ability to accept and cope with difficult child behaviors;
- (5) Participate in social service, medical, or psychiatric treatment plans for the child;
- (6) Participate in training arranged by the local department and the cost of this training may not be borne by the foster parents.

G. The local department shall include in the child's and the foster family's case records a written justification for including the child in the intermediate payment category. The justification shall include a written certification or evaluation by a physician, psychologist, or licensed social worker stating that the child requires a high degree of supervision and care.

H. Treatment Foster Care.

(1) The treatment foster care rate is paid only to foster parents who are providing treatment foster care through one of the State's public treatment foster care programs in accordance with Regulation .33 of this chapter.

(2) Treatment foster care payments shall be made monthly.

(3) The payment shall consist of the board rate according to Schedule A of Regulation .39 of this chapter, and a supplemental treatment difficulty of care stipend.

(4) The Administration shall set the amount of the treatment foster care stipend by service intensity level for local departments that operate a public treatment foster care program.

(5) The payment for respite care services for the public treatment foster care program shall be according to Schedule A of Regulation .39 of this chapter, unless the respite placement is a purchase of care placement, which will be paid at the negotiated per diem rate.

I. Supportive Services.

(1) Supportive services may be purchased in order to maintain the child in the community.

(2) Supportive services may be purchased from:

(a) A foster family who by virtue of special training or experience is able to provide supportive services; or

(b) Another provider appropriate to the special needs of the child.

(3) Supportive services purchased according to §I(2)(a) and (b) shall be approved in writing by the director of the local department or the director's designee who is other than the caseworker. This written approval shall confirm that:

(a) The child requires the identified supportive service because of a health problem, or an emotional or behavioral problem; and

(b) The service provider is capable, by virtue of special training or experience, of providing the needed service.

(4) The services may not be purchased or authorized until the Executive Director of the Social Services Administration or the Director's designee has allocated the amount of funds that are available to purchase them.

J. Retainer Fee. Foster parents who are approved as emergency foster homes may be paid a separate retainer fee, contingent on availability of funds, in accordance with State guidelines.

K. When a child in group care makes a planned visit to a foster family for a weekend or other period, the local department shall pay the foster family the per diem rate in Schedule A of Regulation .39 of this chapter for each overnight stay of the child's visit. The local department shall pay transportation costs from and to the group care placement.

L. A special clothing grant may be made as needed according to the child's age as specified in Schedule B of Regulation .39 of this chapter. The monthly clothing allowance may not be paid for the same month that the initial clothing allowance is paid. The initial clothing allowance is not available to the child in group care when the clothing allowance is in the negotiated rate paid to the provider.

M. Medical Care. Medical care for foster children is provided under the Medical Care Programs of the State. Provision is not made for payment for medical care from out-of-home placement funds, except that:

(1) Payment may be made for essential medical needs for a child when the service or equipment is not available through the Medical Assistance and Health Choice Programs, or other established health care programs;

(2) If a child is covered under the child's parents' medical insurance, the scope of the coverage shall be ascertained and used first;

(3) For costs not available through the Medical Assistance and Health Care Programs of the State, reimbursement shall be made to foster parents for out-of-pocket medical expenses incurred for foster children as set forth in §N(2) of this regulation.

N. Procedures for Reimbursement.

(1) Foster parents shall retain all nonreimbursed bills. Bills for nonprescription drugs shall be accompanied by a physician's statement concerning the child's need for the drugs.

(2) Local departments are authorized to pay from their administrative funds the following items:

(a) Eyeglasses beyond the one pair per year covered by the Maryland Medical Assistance Program and for cost of eyeglass repair as needed;

(b) Nonprescription drugs if accompanied by a physician's statement as to the child's need for them;

(c) Any payment or copayment required for each prescription filled on behalf of a foster child enrolled in the Maryland Medical Assistance Program;

(d) Any other medical service that the child requires, if accompanied by a physician's statement as to the child's need for the service, or a court order.

O. Transportation for or on behalf of the foster child, whether reimbursed to a foster parent or paid to a vendor, may be allowed under the following special circumstances:

(1) To carry out a special plan for the child;

(2) To provide regular transportation required over a period of time;

(3) To provide essential transportation when the distance or the means of transportation or the time of day entails unusual cost.

P. The amount reimbursed may include:

(1) Public transportation costs for the child or for the adult to accompany him when necessary, or both, provided, however, that the costs may not be met when the adult is an employee of another agency;

(2) Incidental expenses such as meals;

(3) Cab fare when necessary because of emergency need or lack of less expensive means of transportation;

(4) Mileage reimbursement at the same rate paid to State employees, when a foster parent furnishes transportation in a personally owned car.

Q. Funeral Expenses.

(1) The local department may pay funeral expenses not exceeding \$650 for a child who dies while in out-of-home placement.

(2) Any resources of the foster child including insurance benefits or the child's estate, or of an individual who was legally responsible for the child's support, are to be used to pay for burial expenses.

(3) The cost of funeral expenses shall be charged to State funds.

(4) Special direct burial expenses, such as the cost of a burial lot, vault when required, grave digging, and burial clothing, which are met by family or friends are exempt from this requirement.

.32 State Standard Rates for Purchased Out-of-Home Placement Services.

A. Purchased Foster Care.

(1) The purchased family foster care rate is for the care of a child who requires extra supervision and attention in a home equipped to give this special care. This type of purchase may be used to prevent placement of a child in a group care facility, or to enable his discharge from a group care facility.

(2) Rates for the purchase of care from licensed child placement agencies are provided for purchased family care supervised through the licensed child placement agencies.

(3) Licensed child placement agencies are reimbursed as follows:

(a) Foster care purchased from agencies, which includes room and board, is paid according to the negotiated rate issued by State Department of Education and the terms of the contract with the Department.

(b) Purchase of Supportive Services.

(i) Provision is made to purchase supportive services, as needed, in order to maintain the children in the community.

(ii) These special supportive services may be purchased from two sources which are the foster family who by virtue of special training or experience is able to provide them, or through another resource appropriate to the special needs of the child.

(iii) The supportive services to be provided shall be approved in writing by the director of the licensed child placement agency or the director's designee who is other than the caseworker. This written approval shall confirm that the child requires the identified supportive service because of a health (physical or mental) condition, or an emotional or behavioral problem, and that the service provider is capable, by virtue of special training or experience, of providing the needed service.

(c) Supportive services may not be purchased or authorized until the Executive Director of the Social Services Administration or the Director's designee has allocated the amount of funds that are available to purchase them.

B. Private Child Placement Agency Treatment Foster Care Rate.

(1) This rate, paid according to the negotiated rate issued by the State Department of Education and the terms of the contract with the Department, provides for the care of a child who requires treatment foster care as defined in Regulation .03B of this chapter.

(2) In recognition of the severe nature of the problems of children cared for in treatment foster homes, a supplemental difficulty of care stipend is paid to these foster parents. The Department shall set the amount of the stipend to be included in the contract with the private provider agency.

C. Initial Clothing Allowance. The initial one-time only clothing allowance as set forth in Schedule B of Regulation .39 of this chapter may be made on behalf of any child entering foster care to meet basic clothing needs.

D. Group Care in an Institution or Group Home.

(1) The Administration shall negotiate rates for:

(a) Basic care which includes room, meals, and clothing;

(b) Social work service to a child dealing with the child's placement and needs, including identified special services in addition to the facility's routine supervision and services;

(c) Health-related services including psychological, psychiatric, medical, and dental services not provided under the Medical Assistance Program and Health Choice Program; and

(d) Approved education program or school, for the period of actual attendance, needed as part of an individual treatment plan not paid for by the Maryland State Department of Education and not generally available.

(2) Supplemental Services.

(a) If funds are available, the local department may purchase supplemental services for a child on an individual need.

(b) Supplemental services are services:

(i) Not included in the negotiated rates listed in §D(1) of this regulation and not available from other resources but needed to complete the treatment plan for a child; and

(ii) Approved by the local director or the director's designee as a need based on written documentation in the child's case record.

(c) Supplemental services include, but are not limited to:

(i) Speech therapy;

(ii) Transportation related to special education; or

(iii) One-to-one staffing.

E. Cooperative Relationships—Purchase of Care.

(1) In any purchase of care plan, the local department and the agencies or facilities involved are required to jointly develop and carry out a responsible plan for services appropriate to the needs of the child, his natural family, or other significant persons in the child's life. The plan shall be implemented by regular interagency contacts. The group facility shall send a written report on the status of the child to the local department at a minimum of every 180 days.

(2) The local department worker shall remain involved with the child and the child's family during and after purchase of care to assure continuity of care and treatment, coordination of interagency effort, and to minimize the duration of purchase of care when possible.

.33 Public Treatment Foster Care (PTFC) Placements.

A. The goals of the PTFC program, in addition to the goals of out-of-home placement as stated in Regulation .02 of this chapter, are to provide, in a family setting, intensive services to a child with a serious emotional, behavioral, medical, or psychological condition.

B. PTFC Child Eligibility Requirements.

(1) To be eligible for PTFC, the child shall:

- (a) Qualify for foster care under Regulation .04 of this chapter;
- (b) Have one or more conditions as detailed in §B(2) of this regulation; and
- (c) Need a high level of treatment in a family setting.

(2) Eligible conditions for PTFC include:

(a) A serious medical condition including, but not limited to:

- (i) HIV positive and symptomatic;
- (ii) AIDS;
- (iii) Multiple handicaps;

(iv) A symptomatic drug-exposed newborn requiring treatment care;

(b) A serious emotional or behavioral condition as defined in Regulation .03B of this chapter, or psychological condition indicated in a psychiatric diagnosis by appropriate qualified professionals, or the same conditions resulting from continuous substance abuse;

(c) A developmental disability as defined in COMAR 10.22.01.01B; or

(d) A medically fragile child condition as outlined in COMAR 14.31.05.03B.

(3) Siblings who do not require treatment foster care may be eligible to be placed as a nontreatment foster child in the same treatment home with a sibling who requires treatment foster care with written approval from the Administration.

C. The PTFC caseworker is responsible for:

- (1) Providing supervision, training, and consultation to treatment and biological parents;
- (2) Arranging and ensuring that a child receives necessary services; and
- (3) Acting as the leader of a child's treatment team.

D. Each local department PTFC program shall establish a gatekeeper for the PTFC program from existing staff who shall:

- (1) Act as the single point of entry for placement of children in the PTFC program;
- (2) Perform periodic assessment of continued treatment foster care eligibility for each child in the PTFC program; and
- (3) Perform program monitoring functions for the PTFC program.

E. Staffing Requirements.

(1) The caseload ratio may not be greater than one PTFC caseworker to eight children.

(2) The PTFC program may decrease the case load ratios of the PTFC caseworker set forth in §E(1) of this regulation if it is determined that one or more of the following circumstances apply:

- (a) The children's needs require the PTFC caseworker to provide more intensive supervision and training for the PTFC parents;

(b) Traveling distances between placements of children requires 2 hours of travel or more and impedes the PTFC caseworker's ability to maintain frequent and direct contact with the PTFC child;

(c) The PTFC caseworker provides case management services and performs duties in addition to services to the child such as recruitment and training of PTFC parents; or

(d) Other factors necessitate the reduction of the caseload to ensure adequate provision of services.

F. The local department PTFC program shall have a written policy for planned discharge of a child from the PTFC which shall be incorporated as part of the child's treatment plan.

G. Before discharge from the PTFC program, the local department shall develop a treatment aftercare plan as part of the child's case record, and which include:

(1) The name, address, telephone number, and relationship of the individual to whom the child is being discharged;

(2) A summary of the services provided during care;

(3) A summary of the growth and achievements of the child during care;

(4) Any identified needs of the child that remain unmet; and

(5) Recommendations for treatment aftercare services needed upon discharge from the PTFC.

H. Referral Responsibilities.

(1) The local department caseworker shall make a written determination that a child is eligible for treatment foster care, and forward the determination to the PTFC gatekeeper along with:

(a) A referral for purchase of care, and all supporting documentation;

(b) A current case plan drafted within 180 calendar days before the date of referral;

(c) Relevant medical records current within 1 year before the date of referral; and

(d) Psychological or psychiatric evaluations performed within 1 year before the date of referral to the gatekeeper if eligibility is based on a serious emotional, behavioral, or psychological condition.

(2) The gatekeeper shall respond in writing to the referring local department caseworker within 14 working days, accepting or denying admission of a child and giving the reason for a denied admission.

I. The PTFC child, the child's attorney, and parent or legal guardian has the right to appeal the eligibility review decision.

J. The length of stay in a PTFC program is subject to review and assessment for continued PTFC eligibility by the gatekeeper at least once a year.

K. The PTFC caseworker shall:

(1) Develop a treatment plan within 30 calendar days of a child's acceptance into the program;

(2) Convene a treatment team to evaluate the child's treatment plan at intervals not to exceed 3 months that shall include:

(a) The treatment foster care caseworker;

(b) Parents or legal guardian, if appropriate;

(c) Local department of social services caseworker, if applicable;

(d) PTFC parents; and

(e) Any therapist, psychologist, psychiatrist, physician, or professional involved in providing treatment services;

(3) Visit face-to-face with the PTFC parents a minimum of twice a month;

(4) Visit face-to-face with the child a minimum of twice a month;

- (5) Provide services to the family of a PTFC child as required in the permanency and treatment plans;
- (6) Meet with the child and the child's family according to the child's treatment plan, legal status, and permanency plan;
- (7) Attend hearings;
- (8) If the child has a separate local department caseworker:

(a) Provide information to the local department caseworker on changes affecting services to the child which could result in revisions to the treatment plan, such as changes in placement, placement location, or visitation plans;

(b) Provide the local department caseworker with a written progress report every 3 months, which includes the current treatment plan and notes from the most recent treatment team meeting discussing progress on the treatment plan;

(9) Provide all medical and psychological information necessary for the care of the child to the PTFC parents;

(10) Provide PTFC parents access to crisis respite care and planned monthly respite care for their treatment foster children; and

(11) Maintain a written pre-service curriculum for the PTFC program and make available to PTFC parents in-service training opportunities.

L. Treatment Home Capacity Requirements.

(1) Not more than two out-of-home placement children may be placed in one eligible treatment home without the prior written approval from the Administration.

(2) Requests to place a third out-of-home placement child, including a sibling, in the home must be made by the local department treatment program in writing to the Administration.

M. The local department PTFC program shall establish a written treatment plan for every treatment child in its program, which includes:

(1) Role of the PTFC foster parent;

(2) Role of the PTFC caseworker;

(3) Specific tasks to be carried out by PTFC parents during placement;

(4) Identification of treatment team members who will assist in the provision of planned care; and

(5) Long-term goals of treatment, including:

(a) Criteria for discharge;

(b) Projected length of stay in the program;

(c) Projected post-treatment; and

(d) Treatment aftercare services.

N. The PTFC parent approved by the PTFC program shall:

(1) Meet all of the requirements of a local department foster parent as prescribed by COMAR 07.02.25;

(2) Meet all of the service and responsibility requirements of COMAR 07.02.21.10A and D;

(3) Complete 8 hours of PTFC parent pre-service training in addition to the foster parent pre-service training requirements of COMAR 07.02.25; and

(4) Complete 20 hours of in-service training annually.

.34 Payment to the Out-of-Home Placement Provider.

A. Amount Paid to the Provider.

(1) The amount paid to the provider for care of the child is the amount determined by the standards established in Regulation .39 of this chapter, less any amount the child, who is planning for independent living, pays directly to the foster home from the child's own earnings as established in the service agreement.

(2) Except for the child's own earnings, all resources shall be paid directly to the local department as reimbursement against the cost of the child's care. The amount that the local department pays to the foster parent or payee is not affected by any resource except the child's own earnings.

B. The provider payee is:

(1) The foster parent in whose home the child has been placed;

(2) The agency or institution from which care is being purchased for the child;

(3) A vendor from whom purchase of certain goods or services has been authorized for the child according to established standards;

(4) The child in a semi-independent living arrangement, or the child's payee.

C. Period Covered and Method of Payment to the Provider.

(1) The period covered for regular payments shall be the calendar month or that part of the calendar month for which the local department has custody of the child, or has care and placement responsibilities for the child through a voluntary placement agreement, and the child is in the provider's care.

(2) Temporary absence of the child from the foster home or group facility, such as for hospitalization or runaway status, with the intent for the child to return to the home or facility does not require recalculation of the amount of monthly board allowance unless the absence exceeds 30 days, in which case additional payment is not made. When the child returns, payment shall be resumed beginning with the date of return.

(3) The amount of payment is calculated on a monthly basis and shall be paid by check or electronic transfer. In calculating the amount for a partial month's care, the following shall apply:

(a) Board.

(i) The amount for board shall be the per diem board rate times the number of days of care, counting the day the child goes into care, but not counting the day the child leaves care.

(ii) For a child who has moved during the month from one foster home to another, each foster home shall be paid the per diem rate for the days that the child was in each foster home, as set forth above.

(b) Clothing and Other Items for Foster Family Care. For a child who is entering care, the full monthly amount for clothing may be allowed so long as the child is in the home for any part of the month, except that if an amount is allowed for initial clothing, then no other allowance for clothing may be made for that month.

(c) Payment for Board and Clothing for Group Care.

(i) The monthly clothing allowance for group care is combined with board and negotiated by the administration as a single rate. Payment is for actual monthly costs not to exceed this rate.

(ii) The amount of board and clothing allowance for care for a partial month is the actual per diem cost for board and clothing times the number of days of care but not counting the day the child leaves care. The per diem cost is the actual monthly cost for board and clothing times 12 divided by 365.

(iii) The initial clothing allowance is not available to group care, except for a child who is in a State institution.

D. Local Department Which Pays.

(1) Payment shall be made by the local department which has responsibility for the child's placement through the court order or voluntary agreement.

(2) When a child is placed in another local department's jurisdiction through intercounty placement, the local department which has legal responsibility for the child shall make the payment to the foster home.

.35 Correction of Payment Irregularities to the Out-of-Home Placement Provider.

A. Within 30 days of the knowledge of payment irregularity, the local department shall commence overpayment procedures.

B. Overpayment Procedures.

(1) To correct an overpayment, the local department shall:

(a) Determine the correct payment amount and take action to correct the continuing payment;

(b) Calculate the total amount of the overpayment; and

(c) Notify the provider in writing of the suspected overpayment amount within 10 days after determining that an overpayment exists.

(2) The local department may not recoup an overpayment from a provider until the local department has notified the provider in writing that an overpayment has been identified.

(3) The local department may propose to reduce, suspend, or terminate payment to correct the overpayment.

(4) The provider may request a fair hearing to challenge the proposed action.

(5) If the local department's decision following a fair hearing is upheld, the proposed reduction, suspension, or termination of the overpayment includes any overpayment made pending the decision.

C. Termination of payment does not relieve the provider of the obligation to reimburse the local department for any overpayment.

D. To obtain reimbursement, the local department shall:

(1) Request repayment of the overpayment; and

(2) If appropriate, initiate collection efforts in conformity with the procedure required to refer the debt to the Central Collection Unit, Department of Budget and Management.

E. If payment to the provider is subsequently reinstated, the local department shall recoup the amount of the overpayment as prescribed in §I of this regulation.

F. If a person repays the local department, the local department shall accept and credit the payment.

G. Fair Hearing.

(1) Before the local department takes action to recover or recoup an overpayment, the local department shall advise the provider of the:

(a) Right to a fair hearing; and

(b) Procedure and time limit for requesting a fair hearing according to Regulation .38 of this chapter and COMAR 07.01.04.

(2) The provider may request a fair hearing to challenge the:

(a) Decision of the local department that an overpayment occurred;

(b) Amount or cause of the overpayment; or

(c) Proposed method to repay the overpayment.

(3) Within 30 days following a fair hearing, the Office of Administrative Hearings shall notify the individual in writing of the:

(a) Agency decision; and

(b) Reasons for the decision.

H. Suspected Fraud Procedures.

(1) If the local department determines that a case is one of suspected fraud as defined in Regulation .03B of this chapter, the local department shall refer the case to the:

- (a) The Department's Office of the Inspector General (OIG); or
- (b) State's attorney's office (SAO).

(2) Before the local department refers a case to the (OIG) or SAO, the referral document shall be approved by a supervisor or the director's designee.

(3) After making the referral, the local department:

- (a) Shall inform the OIG or the SAO of any new facts or changed circumstances in the case;
- (b) Shall provide access to relevant information in its possession to the assigned investigators; and
- (c) May not notify a provider of the referral to the OIG or the SAO but may answer "yes" or "no" when the provider asks whether a referral was made.

I. Recoupment Procedures.

(1) Recoupment.

(a) Except as noted in §I(1)(b) of this regulation, the local department shall take action to recoup an overpayment and determine with the provider:

- (i) The total amount to be recouped; and
- (ii) An amount to be recouped through a monthly deduction from the continuing payment for as many months as are necessary until the overpayment is repaid.

(b) In the case of foster care providers, the amount recouped may not reduce the personal needs allowance by more than 50 percent of the monthly foster care payment rate.

(2) Procedures for Dual Jurisdictions. When a provider moves from one local department jurisdiction to another, the:

- (a) Forwarding local department shall notify the receiving local department of the recoupment process; and
- (b) Receiving local department shall continue the recoupment process, if appropriate, and credit all money recouped to the program funding source according to the Department's instructions.

.36 Local Supplements.

A. A local department may establish a supplement to the State standard to be used to meet special needs, provided that the:

(1) Supplement is met by local funds and is included in the fiscal agreement between the Department of Human Services and the local government;

(2) Supplement is applied uniformly to homes located within the local department's jurisdiction and to specific homes located in the jurisdictions of other local departments, when the local department which makes a supplemental payment places a child in a home located in the jurisdiction of another local department;

(3) Supplemented items are not included in the State standard.

B. The plan to supplement shall be approved as local policy by the Social Services Administration before being put into effect. The plan shall specify the:

(1) Amount budgeted for the supplement;

(2) Reasons for needing it; and

(3) Plan for assuring that the amounts in excess of the State maximum are paid from local funds.

.37 Liability Insurance and Reimbursement for Loss to Foster Parents.

A. Insurance.

(1) The Department shall, under certain conditions, provide liability insurance premiums from State funds, for foster parents who care for children under the direct supervision of the local departments or under the direct supervision of licensed private child placement agencies. The insurance shall cover:

(a) Bodily injury and property damage that a foster child causes to an individual or the property of a person other than a foster parent; and

(b) Actions brought against the foster parents by the child's parents or legal guardians for any accident to the foster child.

(2) Excluded from coverage are claims for:

(a) Alienation of affections;

(b) Accidents involving vehicles which are licensed or intended for road use; and

(c) Payment to the foster parents for injury or damage caused by the foster child to the foster parent which is otherwise covered by insurance.

B. Reimbursement.

(1) The Secretary of Human Services shall reimburse a foster parent for costs of bodily injury or property damage that the child causes to the foster parent.

(2) Excluded for reimbursement to the foster parent are claims in which:

(a) The actions of the foster parent contributed substantially to the bodily injury or property damage sustained; or

(b) If available, the foster parent's insurance covers the bodily injury or property damage sustained.

(3) The maximum amount of reimbursement is \$5,000. Payments in excess of \$2,000 require approval by the State Board of Public Works.

.38 Fair Hearing.

A. At the time of placement, the local department shall give to each parent or legal guardian of a child in out-of-home placement written and verbal notification of the right and methods of requesting and obtaining a fair hearing.

B. The local department shall notify the parents or legal guardian of its intent to take any action which will deny, reduce, suspend, or terminate visits with the child, reunification services, or aftercare services, and of the right and methods of requesting and obtaining a fair hearing on that intended action.

C. A fair hearing need not be held on any decision which has been, or may only be, determined by a court.

D. In all other respects, the provisions of COMAR 07.01.04 apply to fair hearings on out-of-home placement services.

.39 Schedules.

Schedule A

Family Foster Care Rates

| Type of Care | Monthly Board | Per Diem | Monthly Clothing Allowance | Total |
|---|---------------|----------|----------------------------|-------|
| Regular Care: | | | | |
| Regular Care | | | | |
| Infant through Age 11 | \$775 | \$27.45 | \$60 | \$835 |
| Age 12 and older | 775 | 27.94 | 75 | 850 |
| Intermediate Care | | | | |
| Infant through Age 11 | 890 | 31.23 | 60 | 950 |
| Age 12 and older | 890 | 31.72 | 75 | 965 |
| Respite | | 30 | | |
| Treatment Foster Care (Specialized Care): | | | | |
| Infant through Age 11 | 775 | 27.45 | 60 | 835 |
| Age 12 and older | 775 | 27.94 | 75 | 850 |
| Respite | | 50 | | |
| Emergency Care: | | | | |
| Per Diem | | 30 | | |
| Retainer Fee for Emergency Foster Home Shelter Care | | | | 100 |

Schedule B

Initial Clothing Maximum Allowances

(Initial one-time only clothing allowances are made on an "as needed" basis not to exceed the maximums in this schedule.)

| Age Group | Maximum |
|----------------------|---------|
| Infant through age 5 | \$60 |
| Age 6 through age 11 | 75 |
| Age 12 and older | 100 |