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STATE OF MAINE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter 14
RULES FOR LEVELS OF CARE FOR FOSTER HOMES

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Purpose: These rules describe the procedures, requirements, and rates for the Office of Child and Family Services Levels of Care system.

1. Definitions

As used in these rules the following definitions shall apply:

- A. **“Basic Care”** is the type of care offered in Family Foster Homes for Children.
- B. **“Caseworker”** is the child welfare staff within OCFS that is assigned to serve as guardian for the foster child being assessed.
- C. **"Child Assessment"** is the process used to assess a child's level of care through the use of assessment tools approved by the Department, including but not limited to, the Child and Adolescent Functional Assessment Scale (CAFAS), the Preschool and Early Childhood Functional Assessment Scale (PECFAS), the Children’s Habilitation Assessment Tool (CHAT), the Vineland Behavior Scales, and the Temperamental and Atypical Behavior Scale (TABS) Assessment Tool. Assessment tools include, but are not limited to, clinically developed assessments that have been tested to determine that they measure as expected when they are used by different assessors with children with varying demographic characteristics. Assessment tools may be administered only by those with appropriate training and/or certification. The Child Assessment may involve the use of information from the following sources:
- Interviews with Foster Parents and others.
 - Evaluations and reports of child functioning from Child Placing Agencies, mental health providers, schools and/or facilities.
 - Interviews with Caseworkers.
 - Review of case information from Departmental records.
 - Any other information that is deemed pertinent to the Child Assessment process by the Department.
- D. **"Child Placing Agency"** shall mean a licensed facility which advertises itself or holds itself out as finding homes for or otherwise placing children under the age of 18, in homes where care is provided on the basis of 24 hours a day. A Child Placing Agency may also provide contracted services to children and the foster families affiliated with them. Child Placing Agencies may be designed to serve either Family or Specialized Foster Homes.
- E. **“Contracted Entity”** is the entity contracted by the Department to review and authorize Levels of Care for children in Treatment Foster Care.
- F. **“Department”** shall mean the Department of Health and Human Services (DHHS).
- G. **"Family Foster Home for Children"** means a children's home that is a private dwelling, where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis to children under 18 years of age and unrelated to the foster family by blood, marriage or adoption. Family Foster Home for Children is further defined in Chapter 16 "Rules Providing for the Licensing of Family Foster Homes for Children."

- H. **"Foster Child"** shall mean a child under 18 years of age, unrelated to the foster family by blood, marriage or adoption, who requires out of home care on a regular 24-hour a day, residential basis.
- I. For Foster Parents with a Family Foster Home for Children, **"Foster Parent"** shall mean a person maintaining a Family Foster Home.
- J. For Foster Parents with a Specialized Children's Foster Home, **"Foster Parent"** shall mean a person maintaining a Specialized Foster Home.
- K. **"Level of Care (LOC)"** is the level of need and reimbursement rate for the Foster Child determined through the Child Assessment.
- L. **"Levels of Care - Child Functioning Levels"** is the guide to the five levels of care which specifies child behavior and needs by level and sets a reimbursement rate for each level.
- M. **"LOC Reviewers"** are the child welfare staff within OCFS and the Contracted Entity charged with the responsibility to review and authorize LOC for all foster children in Family Foster Homes and Specialized Children's Foster Homes.
- N. **"OCFS"** shall mean the Office of Child and Family Services within the Department of Health and Human Services.
- O. **"Reimbursement rate"** is the daily foster care maintenance payment paid to Foster Parents to cover the cost of food, shelter, daily supervision, school supplies, a child's personal incidentals, and reasonable travel for a child's visitation with family.
- P. **"Special Review"** is a non-scheduled review that may be conducted in response to a claim that a child's needs have substantially changed or that pertinent information was not available at the time of the previous review. Such reviews may be requested by the:
- Caseworker or LOC Reviewer w/ Supervisory approval
 - Foster Parent
 - Child Placing Agency Staff
- Q. **"Specialized Children's Foster Home"** shall mean a children's licensed home that is a private dwelling where substitute parental care is provided within a family on a regular, 24 hour a day residential basis to children under 18 years of age and unrelated to the foster family by blood, marriage or adoption. Specialized care is further defined in Chapter 15 "Rules Providing for the Licensing of Specialized Children's Foster Homes."
- R. **"Treatment Foster Care"** is the type of care offered in Specialized Children's Foster Homes. Treatment Foster Care is also referred to as "Treatment Care."
- S. Foster children who become adults may continue under the **V9 or extended care program at age 18 or older if they are no longer in state custody but are receiving** ongoing services through a voluntary agreement with OCFS. These services are designed to assist the child in completing an educational program, either high school or post-secondary education.

2. Levels of Care (LOC) – Child Functioning Levels

The following levels of care designations are used to determine the reimbursement rate to be paid to the foster parent.

- A. **LOC A- Basic Care - Minimal Needs.** This level is for children who have minimal needs and require the type of care offered in a Family Foster Home for Children. "Children with minimal needs" may have occasional episodes of behavioral and/or emotional problems which do not significantly impair the child's interpersonal relationships and ability to function at home or at school. "Children with minimal needs" are expected to function largely at an age appropriate level educationally, socially, physically, medically, developmentally and emotionally.
- B. **LOC B - Basic Care - Mild Needs.** This level is for children who have mild needs that require a higher than LOC A-Basic Care level of services in a Family Foster Home. "Children with mild needs" may display the following: minor developmental delays, episodic problems relating with others, infrequent concerns/problems regarding performance in school, limited or short-term mental health treatment needs and stable/routine medical needs.
- C. **LOC C-Treatment Care - Moderate Needs.** This level is for children who have moderate needs and require the type of care offered in a Specialized Children's Foster Home. "Children with moderate needs" may display the following: moderate developmental delays, ongoing problems with interpersonal relationships including a history of self-abusive behaviors, and minor episodes of aggression toward others. They may also have ongoing needs for mental health treatment, monitoring of school problems and/or special education needs and/or medical supports.
- D. **LOC D - Treatment Care - High Needs.** This level is for children who have high needs that require a higher than LOC C - Treatment Care level of services in a Specialized Foster Home. "Children with high needs" may display the following: significant developmental delays, impulsivity requiring external control, ongoing conflict with others, unresponsiveness to social prompts, need for special education services to address performance and/or behavior issues, slow or no progress in mental health treatment, and may require in-home supports for medical conditions. They may have a history of self abusive behaviors, including assault on others.
- E. **LOC D - Basic or Treatment Care - Exceptional Medical Care.** This level is for medically fragile children in Basic or Treatment Care with a high level of medical need that does or could lead to care in an "intermediate care nursing facility". It is likely that these issues will not moderate and may become more severe over time and require specialized care to support activities of daily living. It must be shown that the Foster Parent has obtained the training necessary to meet the medical needs of the child and is directly providing that level of care. Examples of children who meet this criteria include, but are not limited to, children that: require a feeding tube, congenital heart disease/abnormalities requiring surgery and monitoring, weekly to monthly hospital/specialist monitoring, kidney dialysis, severe forms of cancer, and/or severe failure to thrive with long range effects.

- F. **LOC E-Treatment Care - Severe Needs.** This level is for children who have severe needs that require a higher than LOC D - Treatment Care level of services in a Specialized Foster Home. "Children with severe needs" may display the following: severe developmental delays, a risk to self or others including deliberate aggression toward others, inability to maintain control in spite of close supervision, chronic/serious medical condition, and poor/no response to mental health treatment.

3. Levels of Care (LOC) Process

- A. When a child comes into state custody, a preliminary determination is made by the Caseworker of this child's needs. Based upon this preliminary determination, the child will be placed in either a Family Foster Home or a Specialized Foster Home. If the child is placed in a Family Foster Home, the entry reimbursement rate will be LOC A - Basic Care. If a child is placed in a Specialized Foster Home, the entry reimbursement rate will be Level C - Treatment Care. Within 90 days of placement in a Family Foster Home or a Specialized Foster Home, an initial Child Assessment will be done by LOC Reviewers to determine the child's level of need.
- B. The result of the Child Assessment will indicate the child's Level of Care.
- C. Children in Basic Care will be reassessed annually to determine if their Level of Care continues to meet their needs.
- D. Children in Treatment Care will be reassessed by the Contracted Entity every six months to determine if their Level of Care continues to meet their needs.
- E. A determination may be made by the Department at the time of the initial Child Assessment that an annual reassessment is not needed for children in Basic Care. An annual assessment may not be needed for:
- Children with chronic medical conditions that will continue to require the same LOC.
 - Children with cognitive limitations that will continue to require services at the same LOC.
 - Children with an authorized LOC of Level A.
- F. Foster parents for children in Treatment Care may request one Special Review of the Level of Care prior to the scheduled reassessment. The Department may grant the Foster Parent's request if it finds substantial changes in the child's needs were demonstrated or that pertinent information was not available at the time of the previous review.

4. Reimbursement Rates

LOC A - Basic Care - Minimal Needs. The daily reimbursement rate is \$16.50.

LOC B - Basic Care -Mild Needs. The daily reimbursement rate is \$26.25.

LOC C - Treatment Care - Moderate Needs. The daily reimbursement rate is \$39.38.

LOC D - Treatment Care - High Needs. The daily reimbursement rate is \$52.50.

LOC D – Basic or Treatment Care - Exceptional Medical Care. The daily reimbursement rate is \$52.50.

LOC E - Treatment Care - Severe Needs. The daily reimbursement rate is \$65.62.

5. Review Process

- A. The Foster Parent and Child Placing Agency will be notified in writing of the result of the Child Assessment.
- B. If the Foster Parent of a child in Basic Care disagrees with the Child Assessment result, the Foster Parent must submit a request for a review, in writing, within 10 business days of the date of the notice. The Foster Parent must include documentation with the request for a review which supports the Foster Parent's dispute of the Level of Care established by the Child Assessment. Requests for review without documentation may be returned to the Foster Parent by the Department.
- C. If the Foster Parent of a child in Treatment Care disagrees with the Child Assessment result, the Foster Parent must submit a request for a review by the Contracted Entity through the Child Placing Agency, in writing, within 10 business days of the date of the notice. The request must include documentation with the request for a review which supports the dispute of the Level of Care established by the Child Assessment. Requests for review without documentation may be returned to the Child Placing Agency by Contracted Entity.
- D. The Foster Parent's written documentation for children in Basic Care will be submitted to the Levels of Care Program Manager for review of the Child Assessment. Written documentation for children in Treatment Care will be submitted via the Child Placing Agency to the Contracted Entity.
- E. For children in Basic Care, the Department will notify the Foster Parent of the result of the LOC review in writing.
- F. For children in Treatment Care, the Contracted Entity will notify the Child Placing Agency of the result of the review in writing.
- G. The result of the review is the end of the internal review process.

6. Appeal Process

A Foster Parent or Caseworker with supervisory approval aggrieved by the results of the review for a child, in either Basic Care or Treatment Care, may request an administrative hearing, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A written request for an administrative hearing must be received by the Department within 10 working days of receipt of notice of the result of the review. Any request for a hearing must state in detail the reasons for believing the Department's or the Contracted Entity's action to be incorrect. If the Department does not receive a hearing request within the time allowed, the review decision will become final at the end of that period. A hearing request should be mailed to: Levels of Care Program Manager, Department of Health & Human Services, 2 Anthony Avenue, SHS # 11, Augusta, ME 04333-0011.

7. Statutory Authority

Title 5 M.R.S.A. § 8052
Title 22 M.R.S.A. § 42
Title 22 M.R.S.A. § 4062

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