



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Children's Administration

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The purpose is to clarify the scope and nature of the right of a foster parent to notice and an opportunity for a hearing to contest a foster care rate assessment.
 The department is creating new sections: WAC 388-25-0001, 0003, 0011, 0016, 0022, 0027, 0032, 0037, 0042, 0047, 0052, 0057, 0062, 0067, 0072, 0077, 0082, 0087, 0107

Citation of existing rules affected by this order:

Repealed: WAC 388-25-0070, 0080, 0085, 0120, 0160, 0170, 0180, 0205
 Amended; WAC 388-25-0095, 0195, 0200
 Suspended: none

Statutory authority for adoption: RCW 74.08.090

Other authority: NA

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-10-024 on April 28, 2009.

Describe any changes other than editing from proposed to adopted version:
 The CR 102 Notice of Proposed Rule-making listed WAC 388-25-0225 and 388-25-0235 in the repealer section. This proposal caused concern for the DSHS Division of Child Support (DCS) as these two sections deal with foster care referrals to DCS. The department has made the decision not to repeal these two WACs at this time.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: NA

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted:

July 27, 2009

NAME (TYPE OR PRINT)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 28, 2009

TIME: 12:00 PM

WSR 09-16-045

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>19</u>	Amended	<u>3</u>	Repealed	<u>8</u>
-----	-----------	---------	----------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>19</u>	Amended	<u>3</u>	Repealed	<u>8</u>

NEW SECTION

WAC 388-25-0001 What kinds of financial support are available to licensed foster care providers? In addition to medical assistance and other services that may be provided to meet the specific needs of a foster child, the department provides licensed foster parents with a monthly foster care maintenance payment. This payment is for the benefit of the child.

NEW SECTION

WAC 388-25-0003 What is the purpose of the foster care maintenance payment? The purpose of the foster care maintenance payment is to assist licensed foster parents in meeting the needs of their foster child. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments (levels 2, 3 and 4) which are paid to foster parents who care for children with varying degrees of physical, mental, behavioral or emotional conditions that require increased effort, care or supervision that are above the needs of a typically developing child.

NEW SECTION

WAC 388-25-0011 What method does the department use to determine what foster care rate will be paid for a foster child? The department uses a standardized assessment tool, the foster care rate assessment, to determine the foster care rate that will be paid on behalf of the child. The tool assesses the needs of the child and the foster parent's ability and time required to meet those needs.

NEW SECTION

WAC WAC 388-25-0016 What are the essential features of the foster care rate assessment system? The foster care rate assessment system includes the following essential features:
(1) Foster care maintenance payments are based on foster

parent time and the nature of activities needed to meet the needs of the child.

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

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

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

(5) The assessment process is automated.

NEW SECTION

WAC 388-25-0022 How does the foster care rate assessment work? The foster care rate assessment is a two-step process that includes the participation of the child's foster parent.

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

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

NEW SECTION

WAC 388-25-0027 What factors are considered in the foster care rate assessment? The assessment tool considers the average number of hours, beyond those expected for a typically developing child of the same age, the foster parent spends in:

(1) Caring and/or advocating for the child to meet the child's physical and behavioral needs;

(2) Participating in parenting activities related to the child's physical or emotional/behavioral therapeutic plan;

(3) Engaging in parenting activities related to supervising and supporting the educational needs of the child;

(4) Participating in parenting activities related to scheduling, arranging, and supervising activities, such as medical and dental appointments for the child, visits between the child and his or her parents and/or siblings, or other school or recreational activities;

(5) Repairing, cleaning or replacing household items, over and above normal repair, due to the child's chronic physical problems or destructive behavior; and

(6) Preparing the child to transition back to the child's parents or to an adoptive or other foster care placement.

NEW SECTION

WAC 388-25-0032 How often do the foster parent and social worker meet to complete the rate assessment? The social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:

- (1) Within thirty days of the child's placement in the foster parent's home;
- (2) At least every six months after the first assessment; and
- (3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.

NEW SECTION

WAC 388-25-0037 What are the reimbursement levels? The amount of foster care maintenance payments may change slightly from year to year. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments that are paid to foster parents who care for children with varying degrees of physical, mental, behavioral, emotional and/or intellectual conditions that require increased effort, care or supervision. The levels of payments are as follows:

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

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

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

NEW SECTION

WAC 388-25-0042 Can the child be assessed at a different level, depending on the foster home? The assessment is based on

both the child's needs and the foster parent's ability and time required to meet those needs. It is possible that a child would be assessed at a different rate in one home than in another, depending on the foster parent's abilities or circumstances as well as the resources and support services available to the child and foster family.

NEW SECTION

WAC 388-25-0047 Can the assessment change if the child's needs change? The child will always receive at least the basic rate (level 1) for the child's age category. However, the child may be assessed at level 2, 3, or 4, as the child's needs change or the circumstances of the foster parents change.

For example: In cases where the child's needs decrease or the time required of the foster parent to meet the child's needs decreases, the standardized assessment may assess the child at a lower rate. For example, on a reassessment a child might be assessed at level 2, when the child's previous rate had been at level 3. In cases where the child's needs or the demands on the foster parent increase, the standardized assessment may assess the child at a higher level.

NEW SECTION

WAC 388-25-0052 How will the foster parent be notified of the rate the child will receive? The foster parent will receive a written letter and payment plan, generated by the department's foster care rate assessment computer program, which will notify the foster parent of

- (1) The amount of the monthly foster care maintenance payment that will be paid on behalf of the child;
- (2) The right to review of the assessment and;
- (3) How to exercise the right of review.

NEW SECTION

WAC 388-25-0057 Can a foster parent challenge the rate assessment? A foster parent, acting on behalf of the foster child, may request a review of the rate assessment for the child.

NEW SECTION

WAC 388-25-0062 How does a foster parent seek a department review of the rate assessment? (1) The foster parent must make a written request for department review of the assessment.

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

(a) The department may grant a twenty-day extension of time for filing the request for review, if the foster parent has contacted a regional foster parent liaison within the initial twenty-day time period and asked for assistance in informally resolving any disagreement as to the rate assessed.

(b) The department has the discretion and may grant a twenty-day extension for good cause.

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

(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.

NEW SECTION

WAC 388-25-0067 What does the department consider in reviewing the request? (1) The review will be conducted by department management level staff, or by a designee who was not involved in the rate assessment process.

(2) The review will be conducted within ten days of receiving the request for review.

(3) The reviewer will consider:

(a) Whether the foster parent and the social worker or designated rate assessment specialist met in person or telephonically to jointly complete the standardized assessment form;

(b) Whether the information obtained through the conversation between the social worker or rate assessment specialist and the foster parent was accurately recorded on the form;

(c) Whether any additional information provided by the foster parent, as authorized in WAC 388-25-0060(3) is relevant to the automated assessment;

(d) Whether the information was accurately entered into the computer program; and

(e) Whether the computer program was properly functioning in calculating the rate and providing the written report of the assessment.

(4) The department will not consider information about the child or the foster family that is outside the standardized assessment form and will not alter the computerized calculation

that is based on a properly completed form.

NEW SECTION

WAC 388-25-0072 How does the foster parent learn about the department's decision on review? (1) The department will send the foster parent a written letter notifying the foster parent that the department either:

(a) Upholds the rate assessment; or
(b) Agrees the rate was wrongly calculated and adjusts the rate to the proper level.

(2) If the department upholds the rate assessment, the notice will provide information about further review.

NEW SECTION

WAC 388-25-0077 How does the foster parent appeal the department's decision on review? (1) If the department upholds the rate assessment on review, the foster parent has the right to further challenge the assessment by timely requesting an administrative hearing.

(2) The request must be in writing and sent to the office of administrative hearings (OAH). WAC 388-02-0025 lists the current addresses for OAH.

(3) The request must be received by OAH within twenty days from the date of the letter notifying the foster parent of the department's decision on review.

(4) Foster care providers and recipients of foster care funds do not have a right to request an administrative hearing to challenge or dispute the established rates of the foster care program or to challenge the foster care rate assessment standardized form or program.

NEW SECTION

WAC 388-25-0082 What law and rules govern the administrative law judge? Chapter 34.05 RCW, chapter 388-02 WAC, and the sections of this chapter relating to foster care rate assessments govern any administrative hearing to review a child's foster care rate assessment. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter prevail.

NEW SECTION

WAC 388-25-0087 What issues may be decided by the administrative law judge? (1) The administrative law judge (ALJ) will consider only:

(a) Whether the foster parent and the social worker or designated rate assessment specialist met in person or telephonically to jointly complete the standardized assessment form;

(b) Whether the information obtained in the meeting between the social worker or rate assessment specialist and foster parent was accurately recorded on the form;

(c) Whether additional information provided by the foster parent on review to the department was accurately recorded on the form, if applicable;

(d) Whether the information was accurately entered into the computer program; and

(e) Whether the computer program was properly functioning in calculating the rate and providing the written report of the assessment.

(2) The ALJ must not consider information about the child or the foster family that is outside the standardized assessment form or that was not provided to the department at the time of the assessment or at the time of the department's review of the assessment.

(3) The ALJ must not make a determination that conflicts with a properly completed standardized foster care rate assessment.

(4) The ALJ must not consider a challenge to the department's established foster care rates or to the foster care rate assessment standardized form or program.

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0095 What are the requirements for release of foster parents' ((care)) licensing records? Foster parent ((care)) licensing records may be disclosed upon request in accordance with RCW ((42.17.260)) 42.56.070.

NEW SECTION

WAC 388-25-0107 What is the beginning date for payment of foster care? (1) The department begins foster care payment for a child on the date the department or its authorized designee places the child in the licensed foster home.

(2) The department pays for each night a child resides in foster care.

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0195 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family? (~~((1) A child may join a foster family in a move out-of-state only if this move supports achieving a permanency goal as outlined in the child's case plan.~~

~~(2) The department and the foster parent must follow CA requirements when a foster child and the licensed foster family moves out-of-state. This may include obtaining permission of the court before the move.~~

~~(3) When the foster family moves to another state, the department must arrange with the other state or local social service agency to license and supervise the home and the placement (see chapter 26.34 RCW). The department does not need to make such arrangements for supervision when the family leaves this state during a vacation.~~

~~(a) Before the foster family moves from Washington to the new state, the social worker or the foster parent may request a foster home license application from the new state.~~

~~(b) If the department and the foster parent are unable to obtain an application for license before the foster family leaves Washington, the foster parent must, upon arrival in the new state of residence, contact the local foster home licensing agency in the new state to apply for a license in that state.~~

~~(4) When the foster family moves to another state with a child in the department's custody, the child's DCFS social worker must submit necessary interstate compact on the placement of children (ICPC) application forms to the department's ICPC program manager. The social worker must do this as soon as the foster family has a new residence or address in the new state. The ICPC request must ask that the new state license the family as a foster home and provide ongoing supervision of the child in care.~~

~~(5) The department continues payments at the department's current rates until the other state fully licenses the home. After receiving a copy of the foster family home license from the other state, the DCFS supervising social worker authorizes payment at the receiving state's rates (see WAC 388-25-0195)) When the foster family moves to another state, the department must arrange with the other state or local social service agency to license and supervise the home and the placement (see chapter 26.34 RCW).~~

~~After receiving a copy of the foster family home license from the other state, the DCFS supervising social worker authorizes payment.~~

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0200 What payment procedures must the department follow for children placed across state borders? (1) When the department places a child into a new placement with a family

residing and licensed in another state, the DCFS social worker must obtain the payment rates from that state. Following receipt of the other state's rates, the department will pay that state's rates ((in accordance with ICPC procedures when:

(a) ~~Those rates are higher than Washington's rates; and~~

(b) ~~The other state identifies its rates to the department)).~~

(2) ~~((When the child welfare department in another state places a child, who is a resident of the state of Washington, in foster care the department makes foster care payments at the rate requested by that state.~~

(3)) ~~The ((CA) children's administration interstate compact on placement of children (ICPC) program manager must approve out-of-state placement before the department makes payment for foster care.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-25-0070	When does the department authorize foster care payments?
WAC 388-25-0080	Are dependency guardians who are licensed foster parents able to receive payment from more than one source?
WAC 388-25-0085	What happens if the dependency guardian receives payments from more than one source?
WAC 388-25-0120	What is the department's reimbursement schedule for regular family foster care?
WAC 388-25-0160	What are the reimbursement standards for payments above the basic foster care rate?
WAC 388-25-0170	What other services and reimbursements may be provided for the support of children placed in foster care by the department?
WAC 388-25-0180	Under what circumstances may the department provide reimbursement for foster care if the child is temporarily absent from the foster home or facility?
WAC 388-25-0205	How does the department treat the earnings of a child in foster care?