

5101:2-47-18

Title IV-E foster care maintenance (FCM) program reimbursability: Reimbursements related to the difficulty of care needs of a child placed in a foster home, treatment foster home, relative home, or pre-finalized adoptive home.

- (A) A child with special, exceptional, or intensive needs, as defined in this rule, receiving FCM reimbursements may be eligible for a supplemental difficulty of care reimbursement. This reimbursement ~~shall be~~ available for a child who has been determined by the Title IV-E agency to have special, exceptional, or intensive needs that ~~require~~ necessitate special parenting attention and care.
- (B) Child characteristics describing the child's special, exceptional, or intensive placement services ~~shall be~~ to be entered into the Ohio's comprehensive child welfare information system (Ohio's CCWIS) ~~statewide automated child welfare information system (SACWIS)~~ within thirty days of the Title IV-E agency receiving custody.
- (C) Difficulty of care reimbursements ~~shall be~~ shall be updated annually by the issuance of a "Family, Children and Adult Services Procedure Letter" and may be offered at one of the following three levels of intensity depending upon the needs of the child and qualifications of the substitute caregiver:
- (1) Special needs.
 - (2) Exceptional needs.
 - (3) Intensive needs.
- (D) A child is eligible for special needs difficulty of care reimbursements when a child is placed in a foster home or, on or after April 1, 2005, in a treatment foster home, as defined in rule 5101:2-1-01 of the Administrative Code, and who presents:
- (1) Moderate emotional or behavioral management problems. These children may display a moderate degree of acting out marked by aggressiveness and/or delinquent behavior such as truancy or running away, substance abuse or any other emotional problems with the primary location of treatment being in the treatment foster home; or
 - (2) A physical condition determined by a physician which ~~requires~~ warrants specialized care.
- (E) The Title IV-E agency ~~shall~~ shall provide special needs difficulty of care reimbursements only to a foster caregiver or, for eligible children placed on or after April 1, 2005, to a treatment foster caregiver certified pursuant to Chapters 5101:2-5 and 5101:2-7

of the Administrative Code. The care and supervision that ~~shall~~is to be given by the substitute caregiver of a special needs child ~~shall~~is to include, at a minimum:

- (1) Twenty-four-~~hour~~ hour availability for supervision.
- (2) Ability to meet the child's basic needs.
- (3) Ability to meet the child's treatment needs, including supervision or provision of prescribed care, such as preparation of special diets or assisting in a program of physical therapy.

(F) A child is eligible for exceptional needs difficulty of care reimbursements when a child is placed in a treatment foster home, as defined in rule 5101:2-1-01 of the Administrative Code, if one of the following applies:

- (1) Who presents more severe emotional or behavioral management problems than those children with special needs. These children may display a high degree of impulsive and acting out behavior toward themselves or others which is often characterized by verbal and physical aggression; or have multiple and severe psychiatric, emotional and behavioral management problems ranging from personality disorders, severe developmental disability, or autism to aggression toward animals, others, and self; sexual acting out, suicidal behaviors or ideation.
- (2) Who has a physical developmental disability as determined by a physician which ~~requires warrants~~ a high degree of care and supervision; or who ~~requires~~needs medical or remedial services recommended by a physician or other licensed or certified professional for the maximum reduction of physical or developmental disability and restoration of the child to ~~his or her~~their best possible functioning level.
- (3) For whom a licensed or certified professional, including a psychologist or psychiatrist, licensed social worker or licensed professional counselor ~~must be~~is involved in the child's care on an as-needed basis, but at least on a semi-annual basis or who has a physical disability as determined by a physician which ~~requires warrants~~ constant twenty-four- hour a day supervision provided by a licensed/registered nurse or persons closely supervised or trained by a licensed/registered nurse or physician.
- (4) For whom a licensed or certified professional, including a physician, psychiatrist, psychologist, licensed social worker or licensed professional counselor ~~shall~~is to be involved in the child's care on at least a monthly basis.

- (G) The Title IV-E agency ~~shall~~ is to provide exceptional needs difficulty of care reimbursements only to a foster caregiver or, for eligible children placed ~~in~~ with a treatment foster caregiver certified pursuant to Chapters 5101:2-5 and 5101:2-7 of the Administrative Code and who has successfully completed, or is currently participating in, a behavior management training course provided or recognized by the Title IV-E agency. The care and supervision that ~~shall~~ is to be provided by the caregiver of an exceptional needs child ~~shall~~ is to include, at a minimum:
- (1) Twenty-four ~~hour~~ hour availability for supervision.
 - (2) A higher degree of personal involvement, patience, and time ~~than is required for a child without exceptional needs.~~
 - (3) Participation in the development and implementation of the ~~child's~~ family case plan and/or individual service plan.
 - (4) Ability to accept assistance and follow instruction and guidance in caring for the child.
- (H) A child eligible for an intensive needs difficulty of care reimbursement is a child with intensive health care needs who is placed in a medically fragile foster home, as defined in rule 5101:2-1-01 of the Administrative Code, and who meets all of the following criteria:
- (1) Under rules adopted by the ~~Ohio department of job and family services (ODJFS) medicaid director governing medicaid payment payments under Chapter 5111 of the Revised Code for long-term care services,~~ the child ~~requires~~ warrants a skilled level of care.
 - (2) The child ~~requires~~ warrants the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical conditions.
 - (3) The child ~~requires~~ warrants the services of a registered nurse on a daily basis.
 - (4) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the significantly impaired intellectual and adaptive functioning.
- (I) The Title IV-E agency ~~shall~~ is to only provide intensive needs difficulty of care reimbursements to a foster caregiver or, for eligible children placed in a medically fragile foster caregiver certified pursuant to Chapters 5101:2-5 and 5101:2-7 of the Administrative Code. A caregiver providing intensive needs services ~~shall~~ is not to have more than two intensive needs children who are not the caregiver's own children

and a maximum of five children placed in his/her home at one time, including other foster children and his/her own children. The care and supervision that ~~shall is not to~~ be provided by the caregiver of an intensive needs child ~~shall is to~~ include, at a minimum:

- (1) Supervision provided by a substitute caregiver on a twenty-four_ hour a day basis as approved by the Title IV-E agency.
 - (2) Provision of structured daily activities as approved by the Title IV-E agency.
 - (3) Provision of constructive guidance to assist in the management of negative behaviors for the child, ~~who meets any of the eligibility criteria in paragraph (G)(1) of this rule.~~
 - (4) Participation in the development and implementation of the ~~child's~~family case plan and/or individual service plan and semiannual administrative review(s) as identified in the family case plan.
 - (5) Recording of the child's progress toward the family case plan or individual service plan goals and objectives as identified on the family case plan.
- (J) When a substitute caregiver is receiving a special, exceptional, or intensive needs difficulty of care payment on behalf of a child, the Title IV-E agency ~~shall is to~~ ensure the foster caregiver is certified to operate a treatment or medically fragile foster home, as applicable.
- (K) Difficulty of care reimbursement may also be available for a special, exceptional, or intensive needs child who is placed in an emergency foster home. "Emergency foster home" as used in this rule means a licensed, certified, or approved foster home which has been designated by a Title IV-E agency as an emergency foster home to provide temporary care, not to exceed thirty days, for children requiring immediate out-of-home placement or immediate placement because of a placement disruption. The emergency foster home ~~must is to~~ be available to provide care to children at any time of the day or night, with little or no notice, and be able to meet immediate physical and emotional needs of children. The Title IV-E agency may also impose restrictions regarding the number of children served or additional training requirements before designating a foster home as an emergency foster home. An emergency foster home for special, or exceptional needs children ~~shall is to~~ be certified as a treatment foster home. An emergency foster home for intensive needs children ~~shall is to~~ be certified as a medically fragile foster home.
- (L) The difficulty of care reimbursement for an emergency foster home ~~shall is not be~~ affected by the age of the child. Difficulty of care reimbursements related to the

special, exceptional, or intensive needs of the child may be made in addition to the payment for an emergency foster home when the emergency foster home meets the provisions of paragraphs (D), (F), (H), and (J) of this rule.

- (M) Reimbursement for emergency foster home placement is limited to thirty days for each placement. Reimbursement ~~shall is not be~~ available as a retainer to a caregiver for maintaining a space for emergency placements.
- (N) Difficulty of care reimbursements ~~shall are to be~~ reimbursed at the FCM program rate of federal financial participation. Authorization for difficulty of care payments ~~shall are be~~ made pursuant to rule 5101:2-47-15 of the Administrative Code.
- (O) For difficulty of care payments, the following documentation ~~shall is to~~ be maintained in the FCM case record to support such payments:
- (1) The degree of difficulty of care and supervision ~~required by the~~ necessary to care for a special, exceptional, or intensive needs child.
 - (2) The qualification of and degree of care and supervision provided by the substitute caregiver.
 - (3) Agency-specific emergency foster home criteria.
 - (4) The agency's compliance with the requirements of paragraph (I) of this rule.
- ~~(P) The uniform statewide standards for FCM payment amounts for public foster homes, relative homes licensed as a foster home and pre-finalized adoptive homes that are established by the ODJFS shall set the maximum amounts for exceptional needs difficulty of care reimbursements and intensive needs difficulty of care reimbursements at the same amount.~~
- (P) The uniform statewide standards for FCM payments, established by DCY, sets the maximum difficulty of care reimbursement amounts for special needs, exceptional needs, and intensive needs.
- (Q) ~~ODJFS~~ DCY reimbursement amounts for a child placed in a foster home on the effective date of rules 5101:2-5-25, 5101:2-5-36, 5101:2-5-37, 5101:2-7-16 and 5101:2-7-17 of the Administrative Code ~~shall are not to~~ be changed solely as the result of the enactment of those rules or placement of the child into one of the new categories of foster homes created by those rules.
- (R) A child with special, exceptional, or intensive needs as described in this rule who is placed in a foster home prior to April 1, 2005, and on whose behalf a difficulty of

care payment is made ~~shall~~ shall to continue to be eligible to receive the difficulty of care payment as long as the child remains placed in the same family foster home.

Effective:

Five Year Review (FYR) Dates: 5/1/2024

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5101.141, 5153.16
Rule Amplifies: 5103.03, 5101.141, 5153.16
Prior Effective Dates: 04/01/1986 (Emer.), 07/01/1986, 07/02/1987,
09/30/1987 (Emer.), 12/27/1987, 09/01/1988,
09/01/1989 (Emer.), 11/30/1989, 09/30/1990,
09/30/1991, 09/01/1993, 12/17/1994, 01/01/1996,
05/01/1998, 01/01/2003, 12/01/2003, 08/25/2008,
05/01/2014, 05/01/2019