

5101:2-47-18

**Foster care maintenance program reimbursability: ~~payments~~  
Payments related to the difficulty of care needs of a child  
placed in a foster home, relative home, or ~~prefinalized~~  
pre-finalized adoptive home.**

- (A) A child with special, exceptional, or intensive needs receiving foster care maintenance (FCM) payments may be eligible for a supplemental difficulty of care payment. This payment shall be available for a child who has been determined by the Title IV-E agency to have difficulty of care needs that require special parenting attention and care.
- (B) Difficulty of care payments 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; or
  - (3) Intensive needs.
- (C) A child eligible for a special needs difficulty of care payment is a child placed in a ~~treatment~~ foster home or, on or after April 1, 2005, in a treatment foster home 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 specialized care.
- (D) The Title IV-E agency shall provide special needs difficulty of care payments only to a ~~treatment~~ 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 be given by the substitute caregiver of a special needs child shall include, but not be limited to:
- (1) Twenty-four hour availability for supervision;
  - (2) Ability to meet the child's basic needs; and

- (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.
- (E) A child eligible for an exceptional needs difficulty of care payment is a child placed in a ~~treatment~~ foster home or, after April 1, 2005, a treatment foster home, and:
- (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 mental retardation, or autism to aggression toward animals, others and self; sexual acting out, suicidal behaviors or ideation; or
  - (2) Who has a physical handicap or disability as determined by a physician which requires a high degree of care and supervision; or who requires medical or remedial services recommended by a physician or other licensed or certified professional for the maximum reduction of physical or mental disability and restoration of the child to his best possible functioning level; or
  - (3) For whom a licensed or certified professional, including a psychologist or psychiatrist, licensed social worker or licensed professional counselor must be involved in the child's care on an as-needed basis, but at least on a semi-annual basis or who has a physical handicap or disability as determined by a physician which requires 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; and
  - (4) For whom a licensed or certified professional, including a physician, psychiatrist, psychologist, licensed social worker or licensed professional counselor must be involved in the child's care on at least a monthly basis.
- (F) The Title IV-E agency shall provide exceptional needs difficulty of care payments only to a ~~treatment~~ 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 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 must be provided by the caregiver of an exceptional needs child shall include, but not be limited to:

- (1) Twenty-four 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 case plan and/or individual service plan; and
  - (4) Ability to accept assistance and follow instruction and guidance in caring for the child.
- (G) A child eligible for an intensive needs difficulty of care payment is a child with intensive health care needs who is placed in a ~~medically fragile~~ foster home or, on or after April 1, 2005, in a medically fragile foster home, and who meets all of the following criteria:
- (1) Under rules adopted by the department of job and family services governing payment under Chapter 5111. of the Revised Code for long-term care services, the child requires a skilled level of care;
  - (2) The child requires 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 the services of a registered nurse on a daily basis; and
  - (4) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.
- (H) The Title IV-E agency shall only provide intensive needs difficulty of care payments to a ~~medically fragile~~ foster caregiver or, for eligible children placed on or after April 1, 2005, to 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 not 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 must be provided by the caregiver of an intensive needs child shall include, but not be limited to:
- (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 case plan and/or individual service plan and semiannual administrative review(s) as identified in the case plan; and
  - (5) Recording of the child's progress toward the case plan or individual service plan goals and objectives as identified on the case plan.
- (I) 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 assure the foster caregiver is certified to operate a treatment or medically fragile foster home, as applicable.
- (J) Difficulty of care payments 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 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 be certified as a treatment foster home. An emergency foster home for ~~medically fragile~~ intensive needs children shall be certified as a medically fragile foster home.
- (K) The difficulty of care payment for an emergency foster home shall not be affected by the age of the child. Difficulty of care payments 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.
- (L) Reimbursement for emergency foster home placement is limited to thirty days for each placement. Reimbursement shall not be available as a retainer to a caregiver for maintaining a space for emergency placements.

- (M) Difficulty of care payments shall be reimbursed at the Title IV-E FCM program rate of federal financial participation. Authorization for difficulty of care payments shall be made pursuant to rule 5101:2-47-15 of the Administrative Code.
- (N) For difficulty of care payments, the following documentation shall be maintained in the Title IV-E FCM case record to support such payments:
- (1) The degree of difficulty of care and supervision required by the 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; and
  - (4) The agency's compliance with the requirements of paragraph (I) of this rule.
- (O) The uniform statewide standards for ~~per diem~~ Title IV-E FCM ~~payments~~ payment amounts for public ~~family~~ foster homes, relative homes licensed as a foster home and pre-finalized pre-finalized adoptive homes that are established by the Ohio department of job and family services for the period beginning September 30, 2001 and ending September 29, 2003 shall set the maximum ~~rates~~ amounts for exceptional needs difficulty of care payments and intensive needs difficulty of care payments at the same ~~rate~~ amount.
- (P) ODJFS reimbursement ~~rates~~ 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 not 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.
- (Q) 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 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:

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Certification

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Date

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