

EMERGENCY RULES

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES**

NUMBER AND TITLE: Support Payments to Resource Parents

PROPOSED EFFECTIVE DATE: August 1, 2022

STATUTORY AUTHORITY: A.C.A. §§ 9-28-103 and 25-10-129

NECESSITY AND FUNCTION: This rule revision is necessary to allow the Division of Children and Family Services to provide needed support payments to relative and fictive kin resource homes that are opened on a provisional basis and, therefore, are not yet eligible for a full board payment. Appendix 9: Support Payments to Provisional Resource Parents allows relative and fictive kin resource parents that are approved on a provisional basis to receive a support payment to help defray the cost of caring for the children placed in their homes. Relative and fictive kin resource homes allow the Division to safely expedite the placement of children in foster care with a relative or fictive kin they already know in an effort to reduce the amount of trauma a child experiences when entering foster care. Since these homes have not yet met all resource home requirements, they are not yet eligible for a full board payment. The support payment of \$240 per child in the home, is less than that of a board payment but will still provide needed financial support to provisional resource parents who have stepped up to care for their relative and fictive kin children who have entered foster care.

Mischa Martin by Leslie Salner

Mischa Martin, Director
Division of Children and Family Services

Promulgation date: August 1, 2022

Contact Person: Mac Golden
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STATEMENT OF EMERGENCY

The Department of Human Services (DHS) announces an emergency rule under Arkansas Code § 25-15-204(c). The rule renders assistance to the citizens of Arkansas by providing needed financial support to children in foster care who are being cared for by relatives and fictive kin opened as DHS resource homes on a provisional basis.

Background and Rule Description: This rule assists provisional relative and fictive kin resource parents to better meet the health and well-being needs of the children placed in their homes by providing a support payment to defray the cost of caring for the children. Relative and fictive kin resource homes allow the Division to safely expedite the placement of children in foster care with a relative or fictive kin they already know in an effort to reduce the amount of trauma a child experiences when entering foster care. Since these homes are opened on a provisional basis and have not yet met all resource home requirements required by the Child Welfare Agency Review Board's Minimum Licensing Standards and Division of Children and Family Services (DCFS) policy such as the completion of resource parent training and a home study, they are not yet eligible for a full board payment. The support payment of \$240 per child placed in the home, is less than that of a board payment but will still provide needed financial support to provisional resource parents who have stepped up to care for their relative and fictive kin children in foster care. With rising costs of food, gasoline, and other necessities, this support payment will be critical to ensuring relatives and fictive kin can continue adequately providing for the health and well-being of the children placed in their homes. This support payment will also prevent provisional resource parents from requesting DCFS to move the children to another placement – which would further jeopardize the children's well-being -- due to the financial strain of having additional household members. The DCFS Director amends the DCFS Policy & Procedure Manual by creating Appendix 9: Support Payments to Provisional Resource Parents, to allow the Division to provide needed support payments to relative and fictive kin resource homes that are opened on a provisional basis.

Statement of Emergency: DHS finds there exists imminent peril to the public welfare of the state, requiring immediate adoption of the emergency rule. The rule ensures financial assistance relatives and fictive kin caring for a vulnerable population of Arkansas citizens. The emergency rule shall be effective upon approval, and a permanent rule will be promulgated effective November 29, 2022.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Children and Family Services
DIVISION DIRECTOR Mischa Martin
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NAME OF PRESENTER AT COMMITTEE MEETING Christin Harper
PRESENTER E-MAIL Christin.Harper@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Rebecca Miller-Rice
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Support Payments to Provisional Resource Parents

This rule will allow DCFS to provide needed support payments to relative and fictive kin resource homes that are opened on a provisional basis and, therefore, are not eligible for a full board payment.

2. What is the subject of the proposed rule? payment.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No

If yes, what is the effective date of the emergency rule? 08/01/2022

When does the emergency rule expire? 11/28/2022

Will this emergency rule be promulgated under the permanent provisions of the Administrative

Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

See attached (Appendix to the DCFS Policy and Procedure Manual.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. §§ 9-28-103 and 25-10-109

7. What is the purpose of this proposed rule? Why is it necessary?

This rule revision is necessary to allow the Division of Children and Family Services to provide needed support to payments to relative and fictive kin resource homes that are opened on a provisional basis and, therefore, are not currently eligible for a full maintenance payment.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: N/A

Time: N/A

Place: N/A

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

TBD

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Emergency: August 1, 2022; Permanent: November 29, 2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See Attached.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). See Attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Unknown

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Children and Family Services

PERSON COMPLETING THIS STATEMENT Melissa Everhart

TELEPHONE (501) 396.6144 **FAX** _____ **EMAIL:** Melissa.G.Everhart@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Support Payments to Provisional Resource Parents

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency’s statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	<u>\$1,668,000.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$ 1,668,000.00</u>

Next Fiscal Year

General Revenue	<u>\$3,794,700.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$ 3,794,700.00</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0.00
\$0.00

Next Fiscal Year

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 1,668,000.00

Next Fiscal Year

\$ 3,794,700.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

This rule revision is necessary to allow the Division of Children and Family Services to provide needed support to payments to relative and fictive kin resource homes that are opened on a provisional basis and, therefore, are not currently eligible for a full maintenance payment.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

This rule is not required by statute. With rising costs of food, gasoline, and other necessities, this support payment will be critical to ensuring relatives and fictive kin can continue adequately providing for the health and well-being of the children placed in

their homes. This support payment will also prevent provisional resource parents from requesting DCFS to move the children to another placement – which would further jeopardize the children’s well-being -- due to the financial strain of having additional household members.

(3) a description of the factual evidence that:

(a) justifies the agency’s need for the proposed rule; and

There are currently over 4,500 children in foster care and only slightly over 1,700 resource homes in the state. Relative and fictive kin resource homes that open for specific children when they enter foster care are critical to ensuring safe and stable placements for children in foster care considering the relative dearth of existing resource homes statewide. Further, the Division wants to ensure ample support for relatives and fictive kin who step up to care for their kin in foster care as research shows that children who are placed with relatives and fictive kin have increased placement stability, better permanency outcomes, and experience less maltreatment while in foster care. With rising inflation costs, the Division has received additional requests from provisional resource parents to assist with the cost of helping to care for the children placed in their homes.

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule’s costs;

The benefits of the rule meet relevant statutory objectives under A.C.A. 9-28-903 regarding foster parent support and the needed services to provided by relative and fictive kin resource homes opened on a provisional basis to meet the health and well-being needs of children in foster care justify the rule’s costs.

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

The less costly alternative would be not to provide a support payment, or a support payment at a lesser amount, which would not adequately address the issue at hand in terms of securing financial support for relative and fictive kin resource parents to help them defray the costs of caring for additional household members.

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A. No public comment held to date as part of emergency rule.

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

Existing rule and law do not allow a full board payment to relative and fictive kin resource homes opened on a provisional basis. The purpose of this proposed rule is, in fact, to amend the rule contributing to the problem by establishing a smaller support payment in lieu of a full board payment.

- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
- (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The agency has an existing rule requiring review of its board payment amounts every five (5) years to assure continued appropriateness (see DCFS Policy VII-M: Financial Support to Foster Parents). This support payment, as it is also financial assistance to resource parents, will also be reviewed every five (5) years to determine whether, based upon the evidence, there remains a need for the rule including whether the rule is achieving statutory objectives and whether the benefits of the rule continue to justify the cost.

APPENDIX 9: SUPPORT PAYMENTS TO PROVISIONAL RESOURCE PARENTS

08/2022

For relative and fictive kin resource homes (referred to collectively as kinship homes) that are opened on a provisional basis, the Division will provide a monthly support payment in the amount of \$240 per child placed in the home. The monthly support payment is designed to help defray costs associated with meeting the immediate needs of children placed in the provisional resource home. The support payment will be pro-rated, as applicable, based on the placement and exit dates of the child in the provisional kinship home service. When a kinship home moves from being provisionally approved to fully approved, the support payment will cease, and the fully approved kinship home will receive a full foster care maintenance payment for the children placed in their home.

Proposed



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Tim Carlock, Assistant Director
for Information Technology
Matthew Miller, Assistant Director
for Legal Services
Jessica Whittaker, Assistant Director
for Research Services

MEMORANDUM

TO: Members, ALC – Executive Subcommittee

CC: Marty Garrity, Director, Bureau of Legislative Research;
Rebecca Miller-Rice, Administrator, Administrative Rules Review Section,
Legal Services Division

FROM: Lacey Johnson, Legislative Attorney, Administrative Rules Review Section,
Legal Services Division

DATE: June 30, 2022

SUBJECT: Legal Authorization for the Arkansas Department of Human Services, Division
of Children and Family Services’ Emergency Promulgation of a Rule Regarding
Support Payments to Provisional Resource Parents

The Department of Human Services, Division of Children and Family Services has the responsibility to “provide services to dependent-neglected children and their families;” “ensure child placements support the goal of permanency for children when the division is responsible for the placement and care of a child; and ensure the health, safety, and well-being of children when the division is responsible for the placement and care of a child.” Ark. Code Ann. § 9-28-103(a)(2), (6)-(7). The Division may promulgate rules as necessary to administer Title 9, Chapter 28, Subchapter 1 of the Arkansas Code, regarding children and family services.

Per the agency, “this rule will allow DCFS to provide needed support payments to relative and fictive kin resource homes that are opened on a provisional basis and, therefore, are not eligible for a full board payment.” Under Arkansas law, a relative or fictive kin who opens a home as a provisional foster home shall not be paid a board payment until the home “meets all of the foster home requirements” and “is opened as a regular foster home.” Ark. Code Ann. § 9-28-108(c)(4)(B)(ii). The agency stated that this emergency rule establishes “a smaller support payment in lieu of a full board payment.” The agency provided the following explanation:

With rising costs of food, gasoline, and other necessities, this support payment will be critical to ensuring relatives and fictive kin can continue adequately providing for the health and well-being of the children placed in their homes. This support payment will also prevent provisional resource parents from requesting DCFS to move the children to another placement—which would further jeopardize the children’s well-being—due to the financial strain of having additional household members.