



Division of Children & Family Services

P.O. Box 1437, Slot S560, Little Rock, AR 72203-1437

P: 501.682.8770 F: 501.682.6968 TDD: 501.682.1442

July 29, 2022

Blake Gilliam, Legislative Analyst
Senate Interim Children and Youth Committee and the
House Aging, Children and Youth, Legislative and Military Affairs Committee
Arkansas Bureau of Legislative Research
Bureau of Legislative Research
#1 Capitol, 5th Floor
Little Rock, AR 72201

Re: Initial Filing – Regular Promulgation for - Support Payments to Provisional Resource Parents

Dear Mr. Blake Gilliam:

Please arrange for the rule to be reviewed by the Children & Youth Committee. If you have any questions or need additional information, please contact Mac Golden, Office of Rules Promulgation at 501-320-6383 by emailing Mac.E.Golden@dhs.arkansas.gov.

Sincerely,

A handwritten signature in blue ink that reads "Mischa Martin".

Mischa Martin
Director

MM:tr

Attachments

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
CONTACT PERSON Mac Golden
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437
PHONE NO. 501-320-6383 FAX NO. 501-404-4619 E-MAIL Mac.E.Golden@dhs.arkansas.gov
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? _____

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.)

August 29, 2022

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.

NOTICE OF RULE MAKING

The Director of the Division of Children and Family Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 9-28-103 and 25-10-129.

Effective November 29, 2022:

The Director of the Division of Children and Family Services amends the Division of Children and Family Services (DCFS) Policy Manual. The rule allows relative and fictive kin resource parents that are approved on a provisional basis to receive a support payment of \$240 per child placed in the home to help defray the cost of caring for the children placed in their homes until they are eligible for a full board payment. Eligibility for support payments is limited to a maximum of six consecutive months per placement episode.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than **August 29, 2022**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4502024715**



Mischa Martin, Director
Division of Children and Family Services

Toni Roy

From: legalads@arkansasonline.com
Sent: Wednesday, July 27, 2022 2:56 PM
To: Toni Roy
Subject: Re: Full Ad Run - Support Payments to Provisional Resource Parents

[EXTERNAL SENDER]

Will run Sun 7/31, Mon 8/1, and Tues 8/2.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Toni Roy" <Toni.Roy@dhs.arkansas.gov>
To: legalads@arkansasonline.com
Cc: "Thomas Herndon" <Thomas.Herndon@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Christin Harper" <Christin.Harper@dhs.arkansas.gov>
Sent: Wednesday, July 27, 2022 12:09:38 PM
Subject: Full Ad Run - Support Payments to Provisional Resource Parents

Please run the attached public notice:

Sunday, July 31, 2022;
Monday, August 01, 2022; and
Tuesday, August 02, 2022.

I am aware that distribution will be provided to all counties on Sundays and limited distribution on other days. Please let me know if you have any questions or concerns.

Please invoice to: **AR Dept. of Human Services**
DCFS, ATTN: Christin Harper
P.O. Box 1437, Slot S-568
Little Rock, AR 72203
(501) 682.8541

Thank you,



TONI ROY

[Office of Rules Promulgation](#)

Program Administrator

Toni Roy

From: Jacqueline Cowan <jacqueline.cowan@sos.arkansas.gov>
Sent: Thursday, July 28, 2022 1:51 PM
To: Toni Roy; Arkansas Register
Cc: Thomas Herndon; Simone Blagg (DHS); Mac Golden; Christin Harper; Debbie Lee; Lakeya Gipson
Subject: RE: DHS/DCFS - Proposed Filing - Support Payments to Provisional Resource Parents
Attachments: SoS - Proposed Rule - Support Payments to Provisional Resource Parents..pdf

[EXTERNAL SENDER]

The attachment has a received stamp indicating our office has received the rule that was sent to us. It is now uploaded on our website.

Jacqueline

From: Toni Roy <Toni.Roy@dhs.arkansas.gov>
Sent: Thursday, July 28, 2022 1:21 PM
To: Arkansas Register <ArkansasRegister@sos.arkansas.gov>
Cc: Thomas Herndon <Thomas.Herndon@dhs.arkansas.gov>; Simone Blagg (DHS) <Simone.A.Blagg@dhs.arkansas.gov>; Mac Golden <Mac.E.Golden@dhs.arkansas.gov>; Christin Harper <Christin.Harper@dhs.arkansas.gov>; Debbie Lee <Debbie.Lee.DO@dhs.arkansas.gov>; Lakeya Gipson <Lakeya.Gipson@dhs.arkansas.gov>
Subject: DHS/DCFS - Proposed Filing - Support Payments to Provisional Resource Parents

External Message

This ad will run in the Arkansas Democrat Gazette on the following dates:

Sunday, July 31, 2022;
Monday, August 01, 2022; and
Tuesday, August 02, 2022.

The public comment period will end on August 29, 2022.

Please let me know if you have any questions or concerns.

Thank you,



TONI ROY

[Office of Rules Promulgation](#)

Program Administrator

P: 501.320.6164
F: 501.404.4619
700 Main Street
P.O. Box 1437, Slot S295

Statement of Necessity and Rule Summary Support Payments to Provisional Resource Parents

Statement of Necessity:

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 maintenance payment.

Summary:

- Appendix 9: Support Payments to Provisional Resource Parents
 - Establish a rule to allow 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 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 who have entered foster care.

APPENDIX 9: SUPPORT PAYMENTS TO PROVISIONAL RESOURCE PARENTS

11/2022

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. Eligibility for support payments is limited to a maximum of six consecutive months per placement episode. 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