Chapter 388-70 Child Welfare—Foster Care—Adoption

WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.


388-70-041 Payment standards—Foster family care. [Order 913, § 388-70-041, filed 3/1/74.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

388-70-051 Education related foster care. [Statutory Authority: RCW 74.13.031. WSR 85-04-062 (Order 2242), § 388-70-057, filed 6/18/85; WSR 78-09-098 (Order 1335), § 388-70-056, filed 9/1/77; Order 1123, § 388-70-056, filed 6/7/76; Order 965, § 388-70-056, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.

388-70-056 Transportation and other expenses—Reimbursement. [Statutory Authority: RCW 74.13.031. WSR 74.08.090. WSR 85-04-062 (Order 2242), § 388-70-056, filed 6/18/85; WSR 78-09-098 (Order 1335), § 388-70-056, filed 9/1/77; Order 1123, § 388-70-056, filed 6/7/76; Order 965, § 388-70-056, filed 10/27/71.] Repealed by WSR 87-09-027 (Order 2481), filed 4/9/87. Statutory Authority: Chapter 74.13 RCW. Reimbursement for damage or loss caused by child in foster care. [Statutory Authority: RCW 74.08.090. WSR 85-03-062 (Order 2242), § 388-70-058, filed 6/18/85; WSR 80-04-055 (Order 1495), § 388-70-058, filed 3/21/80.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.


388-70-060 Services to the child in his own home. [Regulation 70.060, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

388-70-062 Payment for foster care to family receiving public assistance. [Order 913, § 388-70-062, filed 3/1/74.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

388-70-064 Payment for foster care to relative. [Statutory Authority: RCW 74.13.031. WSR 85-03-062 (Order 2242), § 388-70-064, filed 6/18/85; WSR 80-04-055 (Order 1495), § 388-70-064, filed 3/21/80.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

388-70-070 Foster care out-of-state—Authorization—Payment. [Statutory Authority: RCW 74.08.090. WSR 85-13-062 (Order 2242), § 388-70-065, filed 6/18/85; WSR 80-04-055 (Order 1495), § 388-70-065, filed 3/21/80.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.


388-70-080 Foster care—Temporary absence of child from foster care. [Statutory Authority: RCW 74.13.031. WSR 85-13-062 (Order 2242), § 388-70-080, filed 6/18/85; WSR 79-11-105 (Order 1449), § 388-70-054, filed 10/31/79; Order 1123, § 388-70-054, filed 6/7/76; Order 965, § 388-70-054, filed 8/29/75; Order 1016, § 388-70-080, filed 4/1/75; Order 918, § 388-70-080, filed 3/1/74.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

388-70-082 Foster care. [Regulation 70.080, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

388-70-083 Foster care payments to be remitted to department. [Order 913, § 388-70-083. WSR 85-04-062 (Order 2242), § 388-70-082, filed 6/18/85; WSR 91-19-075 (Order 1301), § 388-70-082, filed 3/1/74.] Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

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Assignment of child support judgment and limited power of attorney. [Order 1123, § 388-70-084, filed 6/7/76; Order 918, § 388-70-084, filed 3/14/74.]

Repealed by WSR 01-08-047, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 74.13.031.

Foster care—Determination of parents' financial ability to support child. [Order 623, § 388-70-085, filed 10/27/71.] Repealed by Order 918, filed 3/14/74.

Payment standards for foster care. [Regulation 70.090, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.

Services to unmarried parents—Persons eligible. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Services to unmarried parents—Duration of service. [Order 689, § 388-70-111, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Services to unmarried parents—Persons eligible. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Services to unmarried parents—Payment. [Order 689, § 388-70-114, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Services to unmarried parents—Responsibility. [Order 689, § 388-70-116, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Services to unmarried parents—Services available. [Order 689, § 388-70-118, filed 6/15/72.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Medical care. [Regulation 70.120, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

Foster homes. [Regulation 70.130, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

Interstate movement of children. [Regulation 70.140, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.

Adoption studies for the superior court. [Regulation 70.150, filed 3/22/60.] Repealed by Order 918, filed 3/1/74.

Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 918, filed 3/1/74.

Guardianship of estate of child. [Statutory Authority: RCW 74.08.090.]

Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.

Out-of-state authorization—Payment. [Order 623, § 388-70-221, filed 6/7/76.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.


Child care agency, institution, or maternity home—Setting rates of payment. [Order 1116, § 388-70-220, filed 2/3/77; Order 1116, § 388-70-220, filed 4/28/76; Order 965, § 388-70-230, filed 8/29/74; Regulation 70.230, filed 12/21/64, effective 2/1/65; Regulation 70.230, filed 6/24/64, 9/26/63, 8/28/62, 6/30/60, 3/22/60.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Computation of per capita expenditures. [Regulation 70.232, filed 12/24/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Nonprofit institution and maternity home—Rate setting—Exclusions. [Order 855, § 388-70-245, filed 9/13/73; Regulation 70.232, filed 12/21/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Nonprofit agency—Commercial operations. [Regulation 70.203, filed 4/1/71; Regulation 70.203, filed 10/27/71; Regulation 70.203, filed 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Voluntary agency licensed foster family care—Rate setting. [Order 1116, § 388-70-255, filed 2/3/77; Order 1116, § 388-70-255, filed 6/7/76; Order 855, § 388-70-255, filed 9/1/78; Regulation 70.255, filed 12/24/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Voluntary agency licensed foster family care—Rate setting. [Order 1116, § 388-70-260, filed 2/3/77; Order 1116, § 388-70-260, filed 6/7/76; Order 855, § 388-70-260, filed 9/1/78; Regulation 70.260, filed 12/21/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

New agency—Rate negotiated. [Regulation 70.236, filed 12/21/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

Proprietary agency—Rate setting. [Regulation 70.237, filed 12/21/64, effective 2/1/65.] Repealed by WSR 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

(3/30/01)
388-70-091 Foster care planning for Indian children—Definitions. For the purposes of these rules, the term "Indian" includes the following groups:

1. An enrolled Indian:
   a. Any person who is enrolled or eligible for enrollment in a recognized tribe.
   b. Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior.

2. A Canadian Indian:
   a. Any person who is a member of a tribe, Metis community or nonstatus Indian community from Canada.

3. An unenrolled Indian:
   a. A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

WAC 388-70-092 Foster care for Indian children—Tribal sovereignty. Neither the licensing of Indian foster homes nor the placement and supervision of Indian children within the exterior boundaries of an Indian reservation, shall in any way abridge the sovereignty of an Indian nation or tribe nor shall compliance with these rules and regulations be deemed a relinquishment of sovereign authority by an Indian nation or tribe or by the state of Washington.

WAC 388-70-093 Foster care for Indian children—Services. Documented efforts shall be made to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage. Consequently:

1. In the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility, the local Indian child welfare advisory committee, redesignated by a tribal council, or appropriate urban Indian organization shall be contacted.
Members of that committee will serve as resource persons for the purposes of cooperative planning and aid in placement.

(2) The resources of the tribal government, department and the Indian community shall be used to locate the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities and/or the department.

(3) In planning foster care placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions. The case record shall document the reasons and circumstances of casework decisions and consideration in those regards.

(4) The following resources for foster home placement of Indian children will be explored and followed in the following order: Relatives' homes, homes of other Indian families of same tribe, other Indian foster parents and non-Indian foster homes specifically recruited and trained in cooperation with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographic proximity that will insure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documented effort to complete two copies of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). One copy will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The BIA of the department of Indian affairs agency will review the chart for possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children through coordination with tribal, Indian health service, bureau of Indian affairs social service staff, appropriate urban Indian and Alaskan native consultants, national, state and local Indian welfare organizations and ESSO child welfare advisory committees.

(7) The ESSO shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of Indian children with the assistance of the local Indian child welfare advisory committees.

[WAC 388-70-095 Foster care for Indian children—Serious injury, death, abandonment, child abuse, neglect, incarceration. When an Indian child in foster care dies, is seriously injured, abandoned or incarcerated, in addition to other appropriate notifications, the department shall promptly advise the ESSO Indian child welfare advisory committee and appropriate tribal council. WAC 388-15-131(4) provides for notification about child abuse/neglect incidents.

[WAC 388-70-450 Adoptive planning for Indian children by department staff. (1) Definitions: For the purposes of these rules the term "Indian" includes the following groups:

(a) Enrolled Indian

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian: A person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) Unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized tribe or urban Indian/Alaskan native community organization.

(2) An adoptive family shall be considered Indian if one or both parents are Indian by the above definitions.

(3) In adoptive planning for Indian children, the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities shall be recognized. When consistent with the wishes of the biological parents and/or the child, the adoption of Indian children by Indian families is the primary goal.

(4) Standards implementing the policy are:

(a) Adoption exchange. In the referrals for an Indian child, adoptive homes having the following characteristics shall be given preference in the following order, each category being allowed 30 days before proceeding to the next.

(i) An Indian family of the same tribe as the child.

(ii) A Washington Indian family considering tribal cultural differences.

(iii) An Indian family from elsewhere in the United States or Canada through the adoption resource exchange of North America. Attention shall be given to matching the child's tribal culture to that of the adoptive family.

(iv) Any other family which can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage.

(b) Foster parent adoptions: As a part of the total evaluation for approving a foster parent adoption of an Indian child, ESSO service staff shall document the foster family's past performance and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

(c) When an Indian child, in the custody of an out-of-state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained that assures the department's standards for planning for Indian children have been complied with.

(5) Local staff shall consult with an Indian child welfare committee in planning for placement of Indian children.

[WAC 388-70-600 Local Indian child welfare advisory committee—Purpose. The intent of WAC 388-70-096, 388-70-450, and 388-70-600 through 388-70-640 is to ensure protection of the Indian identity of Indian children, their

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rights as Indian children, and the maximum utilization of available Indian resources for Indian children. To ensure the realization of this intent, information about each current and future case involving Indian children for whom the department of social and health services has a responsibility shall be referred to a local Indian child welfare advisory committee on an ongoing basis according to procedures which recognize the privacy rights of the families.

The purposes of local Indian child welfare advisory committees are:

(1) To promote relevant social service planning for Indian children.

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the department of social and health services.

(3) To assist in obtaining participation by representatives of tribal governments and Indian organizations in departmental planning for Indian children for whom the department has a responsibility.

[Order 1167, § 388-70-600, filed 10/27/76.]

WAC 388-70-610 Local Indian child welfare advisory committee—Membership. Local Indian child welfare committees shall be established within each region. The number and locations of the local committees shall be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee shall consist of representatives designated by tribal government and urban Indian organizations. The regional administrator shall appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The committee may also include bureau of Indian affairs and/or Indian health service staff if approved by participating tribal councils and urban Indian organizations.

(3) The DSHS regional administrator and/or the ESSO administrator shall appoint a member of his child welfare supervisory staff as a liaison member of the committee.

(4) The local Indian child welfare advisory committee is an ad hoc advisory committee not specifically authorized by statute. As such its members are not entitled to per diem and travel expenses for the performance of advisory committee functions. This rule shall not be construed, however, to prohibit expense payments to members who are otherwise qualified for and perform services compensable under other programs such as the volunteer programs.

[Order 1167, § 388-70-610, filed 10/27/76.]

WAC 388-70-620 Local Indian child welfare advisory committee—Functions. (1) The functions of the local Indian child welfare advisory committee are:

(a) Assistance to DSHS staff in cooperative planning for Indian children.

(b) Consultation to DSHS staff regarding the provision of adoption, foster care and child protective services on behalf of Indian children.

(c) Reviewing the situations of Indian children.

(d) Assisting in the implementation of recommended plans.

(e) Assisting in the recruitment of and making recommendations regarding the licensing of foster and adoptive homes for Indian children and providing culturally relevant services to Indian children.

(f) Requests the ESSO administrator to initiate reviews of casework decisions that the committee believes to be detrimental to the best interests of Indian children.

(g) Acts in an advisory capacity to the regional administrator and ESSO administrator regarding the department's implementation and monitoring of the rules related to foster care, child protection, and adoption services to Indian children and their families.

[Order 1167, § 388-70-620, filed 10/27/76.]

WAC 388-70-630 Local Indian child welfare advisory committee—Meetings. Each committee and the regional administrator and/or ESSO administrator will mutually agree as to time, place and frequency and conduct of official committee meetings.

[Order 1167, § 388-70-630, filed 10/27/76.]

WAC 388-70-640 Local Indian child welfare advisory committee—Confidentiality. The members of the local child welfare advisory committee shall agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff.

[Statutory Authority: RCW 74.15.030. WSR 89-05-063 (Order 2743), § 388-70-640, filed 2/15/89; Order 1167, § 388-70-640, filed 10/27/76.]