

**Notice of Public Hearing**

LSA Document #10-416

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Under [IC 4-22-2-24](#), notice is hereby given that on September 24, 2010, at 2:00 p.m. EDT, at the Indiana Government Center South, 302 West Washington Street, Conference Center Rooms 1 and 2, Indianapolis, Indiana, the Department of Child Services will hold a public hearing on a proposed new rule, [465 IAC 2-16](#), to establish mechanisms and procedures the department will use for setting maintenance payments, administrative payments, and payments for other costs and services, that the department makes to licensed residential treatment services providers, including child caring institutions, group homes, and private secure facilities, on behalf of children that the department places in those facilities; and to describe outcome measures that the department may consider in contracting with residential treatment services providers for placement of children and provision of services.

The proposed rule provides for an annual public hearing and independent contractor review of the department's rate setting methodology, and a procedure for providers to request and receive a department administrative review of individual rates that the department establishes. It requires the providers to submit annual cost reports and defines allowable and unallowable costs for purposes of administrative and maintenance payments. It also requires providers to bill the Medicaid program separately for covered services to eligible children. This rule will establish a procedure for approval of payment rates and amounts among different residential treatment services providers that is more uniform and consistent than the contractual negotiation procedure currently in effect.

The department expects that this rule will not impose additional cost to providers for compliance with its provisions, as compared to the rate setting procedures and requirements currently in place.

In compliance with [IC 4-22-2-24\(d\)\(3\)](#), the department advises that it has consulted and utilized information from various sources, including, but not limited to, the following, in determining that the requirements imposed on its licensees by this proposed rule are necessary and appropriate:

- (1) Title 42 United States Code Sections 672 and 675.
- (2) Guidance relating to allowable costs claimable for reimbursement under Title IV-E of the federal Social Security Act as contained in applicable sections of the Child Welfare Policy Manual published by the Children's Bureau of the United States Department of Health and Human Services.
- (3) Provisions of the federal Office of Management and Budget Circulars that explain or define reasonable and allowable costs reimbursable under federally assisted programs, codified at 2 CFR Part 225, 2 CFR Part 230, and 48 CFR Part 31 Section 201-3, and incorporated by reference in the proposed rule.
- (4) [405 IAC 21.5](#), relating to "Medicaid Rehabilitation Option Services".
- (5) The most recent available Child Welfare League of America Salary Study, published by CWLA Press, that contains a survey of job category salaries applicable to residential treatment services providers covered by this rule.
- (6) Department of Child Services current and projected client to staff ratios contained in applicable licensing rules.
- (7) Report of the Children's Rights organization titled "Hitting the M.A.R.C. – Establishing Foster Care Minimum Adequate Rates for Children" (October 2007).
- (8) Analysis of rates and related rules for setting rates in other states, prepared for the department by Public Consulting Group in a report titled "Contracted and Title IV-E Rate Setting Process – Cost Report Ratio Options".
- (9) Statutes and administrative rules relating to payment rates for comparable facilities and providers in other states, including, but not limited to, Illinois, Michigan, Missouri, and Ohio.
- (10) Provider rights and duties as specified in contracts between the department and residential treatment services providers, effective for calendar years 2008 and 2009.
- (11) Powerpoint for residential child care providers titled "Title IV-E Cost Report Training Overview" (2010).
- (12) Powerpoint titled "Indiana Title IV-E Rate Setting Overview" and related cost report forms, practices, and instructions.
- (13) Entry Granting a Preliminary Injunction, filed in the United States District Court, Southern District of Indiana, on January 26, 2010, in the consolidated cases of C.H. et al. v. Payne, no. 1:09-cv-1574-SEB-JMS and IARCCA v. Indiana Department of Child Services, formerly no. 1:09-cv-1580-WTL-DML (published at 683 F.Supp.2d 865).
- (14) Document titled "IARCCA'S Response to Department of Child Services' 4-28-10 Draft Policies for Rate-Setting for Licensed Child Placing Agencies (LCPAs) and Residential Treatment Services Providers," prepared May 7, 2010 by Cathleen Graham, Executive Director.

*Copies of the proposed rule, and any documents described above that the department consulted relating to requirements imposed by this rule, may be inspected and copied at the offices of the department as stated below.*

*Any interested persons may attend the public hearing and offer comments on the proposed rule. Written statements are encouraged and preferred, and will be included in the hearing record, without the necessity for personal attendance at the hearing. Written statements may be submitted before or at the time of the hearing. Questions, comments, or prehearing written statements may be forwarded to the mailing address or by e-mail as follows:*

*Mail address:*

*Jeffrey M. Lozer, General Counsel*

*Room E306, MS 47*

*302 West Washington Street*

*Indianapolis, IN 46204-2739*

*E-mail address: residential.rulemaking@dcs.in.gov*

*Copies of these rules are now on file at the Indiana Government Center South, 302 West Washington Street, Room E306 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.*

John Wood

Deputy General Counsel

Department of Child Services

302 West Washington Street, Room E306

Indianapolis, Indiana 46204-2739

ljohn.wood@dcs.in.gov

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