

The Foster Care Independence Act of 1999, at 42 U.S.C. § 677(a)(1) through (4), provides funding to states to help children who are likely to remain in foster care until 18 years of age transition to self-sufficiency. The rules, at N.J.A.C. 10:122D-2.7, comply with the Federal requirements to provide services to children less than 18 years of age to become self-sufficient.

The Division’s fiscal year (FY) 2016 Title IV-E Foster Care appropriation is \$96,531,000. The re-adoption of these rules affects the Division’s budget as the rules assist the Division to meet the standards necessary to be eligible for Federal Title IV-E foster care funds.

Federal Standards Statement

The rules proposed for re-adoption are not in excess of those imposed by Federal law. Title IV-B of the Social Security Act, 42 U.S.C. § 622, requires that the State have a plan for child welfare services. 42 U.S.C. § 622(b)(8)(A)(iii) requires that plan to include assurances that the State is operating a service program to help children return to their families or to be placed for adoption, with a legal guardian, or in another permanent living arrangement. The rules proposed for re-adoption codify those services.

42 U.S.C. § 622(b)(15) requires that the State Plan describe “... how the State actively consults with and involves physicians or other appropriate medical professionals in assessing the health and well-being of children in foster care under the responsibility of the state; and determining appropriate medical treatment for the children ...” These rules state that involvement with medical professionals is required.

Title IV-E of the Social Security Act, 42 U.S.C. §§ 670 et seq., requires the State to have a plan, which requires that each foster child whose foster care payment is partially funded by Title IV-E funding be provided with numerous services.

42 U.S.C. § 671(a)(15)(B)(ii) requires that the State make reasonable efforts to return a child safely to the child’s home. Reasonable efforts to return a child home include visits with the parents or other relatives who may provide a home for the child. The rules requiring visitation do not exceed the Federal requirements for reasonable efforts.

42 U.S.C. § 671(a)(16) requires that each child in foster care have a case plan. 42 U.S.C. § 675(1)(B), (C), and (D) define a case plan as including information about services to assure that the child can return to his or her own safe home or a permanent placement and to address the child’s needs while in foster care, the child’s health and education records, and information about services, which prepare the adolescent for independent living. These rules require the Division to provide services to each child in out-of-home placement and to maintain written health care, education, and self-sufficiency (that is, independent living) service records in keeping with the Title IV-E requirements.

42 U.S.C. § 671(a)(22) requires that the State develop and implement standards to ensure that children in foster care are provided quality services to protect the children’s safety and health. N.J.A.C. 10:122D-2 requires that services are provided to meet the needs of a child in foster care, which is in keeping with the Federal requirement.

The rules comply with the Foster Care Independence Act of 1999, Pub. L. 106-169, 42 U.S.C. § 677, regarding self-sufficiency skills as part of the independent living program. N.J.A.C. 10:122D-2.7 coordinates with purposes of the John H. Chafee Foster Care Independence Program, 42 U.S.C. § 677(a)(1) through (4). To summarize, the purposes are to help children likely to remain in out-of-home placement until 18 years of age to become self-sufficient by providing services, helping them to receive education and training, helping them to enter postsecondary training and education institutions, and providing emotional support through mentors.

The rules proposed for re-adoption with amendments support and do not exceed Federal standards or requirements, and a Federal standards analysis is not required for this rulemaking.

Jobs Impact

The Division does not expect that the rules proposed for re-adoption will result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for re-adoption have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Division, nor those receiving out-of-home placement from the Division, nor those providing resource care to children through the Division are considered a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While some providers of group home and residential child care facility services may be small businesses under N.J.S.A. 52:14B-16 et seq., the rules proposed for re-adoption with amendments do not impose reporting, recordkeeping, or compliance requirements on small businesses. The rules proposed for re-adoption state the Division’s policies and procedures for developing a visitation plan for a child in out-of-home placement and his or her family and describes the services that the Division shall provide to a child in out-of-home placement. Therefore, a regulatory flexibility analysis is not necessary.

Housing Affordability Impact Analysis

The rules proposed for re-adoption will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing, as these rules pertain to and govern the Division of Child Protection and Permanency’s out-of-home services.

Smart Growth Development Impact Analysis

The Division does not anticipate that the rules proposed for re-adoption will have any impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to the Division of Child Protection and Permanency’s out-of-home services.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:122D.

(a)

DIVISION OF CHILD PROTECTION AND PERMANENCY

Removal of Children in Placement from Resource Family Homes

Proposed Re-adoption with Amendments: N.J.A.C. 10:122E

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner, Department of Children and Families.

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-26.a.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-010.

Submit written comments by March 4, 2016, to:

Debra A. Hayes
Office of Policy and Regulatory Development
Division of Youth and Family Services
PO Box 717
Trenton, New Jersey 08625
or E-mail: rules@dcf.state.nj.us

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10:122E, Removal of Children in Placement from Resource Family Homes is scheduled to expire on December 2, 2015. Pursuant to N.J.S.A. 52:14B-5.1.c(2), this date is extended 180 days to May 30, 2016. The Division of Child Protection and Permanency (Division) has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The Department of Children and Families (Children) has provided a 60-day comment period on this notice of proposal. Therefore, this

proposal is excepted from the rulemaking calendar requirements in accordance with N.J.A.C. 1:30-3.3(a)5.

These rules were initially adopted in 1993, with readoptions with technical amendments in 1997, 2003, and 2008. The Division initially promulgated these rules in order to bring the Division into compliance with New Jersey State Supreme Court decisions, particularly *Metromedia, Inc. v. Director, Division of Taxation*, 97 N.J. 313 (1984). The Division wishes to retain these rules in order to maintain compliance with the same New Jersey State Supreme Court decisions.

The Division is responsible for ensuring that every child residing in a resource family home supervised by the Division and licensed by the Department's Office of Licensing is in a safe environment. The purpose of these rules is to state the circumstances in which a child in placement can be removed from a resource family home, and the procedures related to removals from these homes as covered by this chapter.

The Foster Parent Licensing Act, N.J.S.A. 30:4C-27.3 et seq., took effect April 8, 2002. The act set up new standards and procedures for persons to become and remain licensed foster parents. The Department of Children and Families' Office of Licensing has the authority and responsibility for both licensing a resource parent and revoking the license.

The Division proposes to amend N.J.A.C. 10:122E-1.1, Authority, by removing the former agency name, Division of Youth and Family Services and replacing it with the current agency name, the Division of Child Protection and Permanency. In this section two technical amendments are also proposed.

A summary of the rules proposed for readoption follows:

N.J.A.C. 10:122E-1.1 gives the source of the Division's authority to establish standards.

N.J.A.C. 10:122E-1.2 states the purpose of this chapter.

N.J.A.C. 10:122E-1.3 states the scope of this chapter.

N.J.A.C. 10:122E-1.4 references the definitions used in this chapter.

N.J.A.C. 10:122E-2.1 gives the reasons why an emergency removal may be requested and the Division's procedures when an emergency becomes known to the Division.

N.J.A.C. 10:122E-2.2 gives the reasons why a non-emergency removal may be requested and who may request a non-emergency removal.

N.J.A.C. 10:122E-2.3 states the procedures a Division representative must complete when a non-emergency removal is indicated.

N.J.A.C. 10:122E-2.4 states what the Division will do when a resource family parent or household member is convicted of a crime.

N.J.A.C. 10:122E-2.5 lists the considerations that the Division must use when deciding whether to remove a child in placement from a resource family home and when deciding whether to return a child already removed to the resource family home.

N.J.A.C. 10:122E-2.6 lists who must be notified when a child in placement will be, or has been, removed from a resource family home.

N.J.A.C. 10:122E-2.7 requires an attempt to resolve any disagreement between the Division and a resource family parent in certain situations.

Social Impact

The effect of this chapter is to protect children in placement by keeping them in resource family homes, which meet State licensing standards, with providers who have cleared criminal history checks. Another effect is to inform resource family parents of what to expect if their license is being revoked or a child is removed from their care. By having the standards and procedures in rules, the Division standardizes the way these situations are handled Statewide.

Most children in placement are removed from their resource family homes in order to achieve the case goal for the child. For example, the child is returned to a parent or family member, reunited with siblings, or is adopted through a selected home adoption. Most resource families and children in placement will eventually be affected by the rules proposed for readoption on removal, N.J.A.C. 10:122E-2, as the child's case goal is reached. As of July 31, 2015, there were 6,313 children in placement in resource family care and kinship resource care homes.

The Division anticipates a positive response to the rules proposed for readoption with amendments as they assure the care and safety of children placed in licensed resource family homes.

Economic Impact

The Division pays resource family parents a monthly board check, which is reimbursement for previously incurred expenses by the resource family parent on a child's behalf. The board checks are not to be viewed as income to the resource family household. Therefore, there is no economic impact on the resource family parent when a child is removed from their home. While the board check stops at the end of the placement of a child, the expenses, which it covers also stop.

There are no additional or different expenses incurred by a resource family when its license is revoked or discontinued. If a resource family moves out-of-State, the license is revoked whether incurred by the Division or the Office of Licensing.

The economic cost of this chapter, is the cost of personnel who work with each other and with resource family parents around issues that may result in the removal of a child in placement or the renewal or revocation of a license. These staff members are already included in the Department's budget.

The Division was appropriated \$96,531,000 in Federal Social Security Act, Title IV-E Foster Care money for fiscal year 2016. Title IV-E funds reimburse the State for some expenses associated with the out-of-home placement of children.

The Division believes that the rules proposed for readoption with amendments help to assure the safety of children in resource family care until their permanent plan is achieved, and that this is in keeping with the tenets of Titles IV-E.

Federal Standards Statement

The rules proposed for readoption with amendments do not exceed Federal standards or requirements, and a Federal exceedance analysis is not required for this rulemaking.

Federal law does not specifically address the removal of children in placement from resource family homes. Even so, this chapter supports the Federal law generally. For example, 42 U.S.C. § 671(a)(15)(B) and (C) discuss the safe return of a child to his or her home or the completion of another permanent plan. The removal of a child from his or her resource family home is regulated to accommodate these reasons for removal.

42 U.S.C. § 671(a)(20)(A) requires criminal records checks for prospective resource family parents and household members. N.J.A.C. 10:122E-2.4 addresses certain situations in which a child must be removed from his or her resource family home when a criminal conviction appears, as well as when Division management and the Department's Office of Licensing may approve continued placement of children in the resource family home, based on the child's safety.

Jobs Impact

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any job.

Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Division, nor those receiving resource family care from the Division, nor those providing resource family care to children through the Division are considered a small business under the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The rules proposed for readoption with amendments do not impose reporting, recordkeeping, or compliance requirements on small businesses. Therefore, a regulatory flexibility analysis is not necessary. The rules proposed for readoption with amendments state the Division's policies and procedures for removing a child in placement from a resource family home.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing, as these rules pertain to Division's policies and procedures for removing a child in placement from a resource family home.

Smart Growth Development Impact Analysis

The Division does not anticipate that the rules proposed for readoption with amendments will have any impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to Division's policies and procedures for removing a child in placement from a resource family home.

Full text of the rules proposed for readoption may be found at N.J.A.C. 10:122E.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10:122E-1.1 Authority

Pursuant to N.J.S.A. 30:4C-4(h) and 30:4C-[26a]26.a, the Division of [Youth and Family Services] **Child Protection and Permanency**, Department of Children and Families, is authorized to establish rules for the removal by the Division of a child in placement from a resource family home. Under the above statute, the Division has the discretionary authority to remove a child in placement from a resource family home at any time with or without the consent of the resource family parent, parent, or child in placement.

INSURANCE**(a)****DEPARTMENT OF BANKING AND INSURANCE****OFFICE OF SOLVENCY REGULATION****Insurance Company Holding Systems****Proposed New Rules: N.J.A.C. 11:1-35.13 and 11:1-35 Appendix Exhibit F****Proposed Amendments: N.J.A.C. 11:1-35.1 through 35.5, 35.7, 35.9, 35.10, and 11:1-35 Appendix Exhibits A through E**

Authorized By: Richard J. Badolato, Acting Commissioner,
Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:27A-1 et seq.
Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2016-002.

Submit comments by March 4, 2016, to:

Denise M. Illes, Chief
Legislation and Regulation
Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
E-mail: Legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

P.L. 2014, c. 81, enacted December 26, 2014, amends N.J.S.A. 17:27A-1 et seq., which regulates insurance holding company systems in this State. The proposed amendments and new rule conform New Jersey's laws with the amendments to the Model Insurance Holding Company Systems Act adopted by the National Association of Insurance Commissioners (NAIC) in 2010. These amendments and new rule are required for state insurance departments to maintain NAIC accreditation.

The Department of Banking and Insurance (Department) proposes to amend the existing rules implementing N.J.S.A. 17:27A-1 et seq., originally adopted in 1993, to reflect the amendments to the Act

referenced above and to conform the rules to the current NAIC Model Insurance Holding Company System Regulation. These amendments and new rule also are required to be adopted for state insurance departments to maintain NAIC accreditation. Implementation of these amendments and new rule will ensure that the Department's regulation of insurance holding company systems in this State is consistent with the national standard as reflected by the NAIC, which all states will be required to implement in order to maintain NAIC accreditation.

A summary of the proposed amendments and new rule follows:

N.J.A.C. 11:1-35.1(a) is proposed to be amended to add a reference to the proposed new enterprise risk reporting required pursuant to N.J.S.A. 17:27A-3.k in the subchapter's scope and purpose statement.

N.J.A.C. 11:1-35.2, the definitions section, is proposed to be amended to add a definition for "enterprise risk" pursuant to N.J.S.A. 17:27A-1.1, and to amend the definition of a "person" to add "limited liability company" in accordance with the amendment made by P.L. 2014, c. 81 to N.J.S.A. 17:27A-1.f. N.J.S.A. 17:27A-1.1 defines "enterprise risk" as any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's Risk-Based Capital to fall into company action level as set forth in administrative rules adopted by the Commissioner which reflect the standards set forth in the Risk-Based Capital For Insurers Model Act adopted by the National Association of Insurance Commissioners or would cause the insurer to be in hazardous financial condition as defined in administrative rules adopted by the Commissioner which reflect the standards set forth in the Model Regulation adopted by the National Association of Insurance Commissioners to define standards and the Commissioner's authority over companies deemed to be in a hazardous financial condition.

N.J.A.C. 11:1-35.3(a) and (b) are proposed to be amended to reflect the new Form F in the NAIC Model related to Enterprise Risk Reports (proposed as new N.J.A.C. 11:1-35 Appendix Exhibit F), which the ultimate controlling person of every insurer subject to registration (Form B filing) must file with their lead state pursuant to N.J.S.A. 17:27A-3.k and which the Commissioner of Banking and Insurance (Commissioner) may require to be filed pursuant to N.J.S.A. 17:27A-2.b(12).

N.J.A.C. 11:1-35.3(b)1, which requires that a copy of Exhibit C be filed in each state in which an insurer is authorized to do business if the Commissioner or other regulatory official of that state has notified the insurer of its request in writing, is proposed to be deleted as this relates to requirements of other states, and is not necessary for this State. All members of an insurance holding company system doing business in multiple states will be subject to the same rules and copies of Exhibit C (Form C) are available through the NAIC. Accordingly, this requirement is no longer necessary. This proposed change also conforms the rules to the national standard reflected by the NAIC model.

Existing N.J.A.C. 11:1-35.3(b)2 is proposed to be recodified as paragraph (b)1 and to delete the requirement that at least one of the copies of the required forms shall be "manually" signed.

A new N.J.A.C. 11:1-35.3(b)2 is proposed to provide that if an applicant requests a hearing on a consolidated basis pursuant to N.J.S.A. 17:27A-2.d(3), in addition to the filing of Exhibit A with the Commissioner, the applicant shall file a copy of Exhibit A with the NAIC in electronic form in accordance with instructions to be provided on the Department's website. This reflects the ability to request hearings on a consolidated basis pursuant to the aforementioned statute.

N.J.A.C. 11:1-35.3(c) is proposed to be amended to refer to proposed Exhibit F as set forth above. In addition, the section is proposed to be amended to reflect the current NAIC Model, which provides that Form A statements may also be submitted electronically in accordance with instructions to be provided on the Department's website. The Department also proposes to revise this section to modify the language to reflect the current NAIC Model and to change the word "photocopy" to "review and reproduction" to reflect current terminology.

Proposed N.J.A.C. 11:1-35.4(a) is proposed to be amended to refer to proposed Exhibit F for the reasons set forth above and to delete the reference to "or paper" as a matter of form.